

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING
APPLICATION 17012
JEMAL'S BENJO LLC

+ + + + +

TUESDAY

May 20, 2003

+ + + + +

The Public Hearing was convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 10:09 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
RUTHANNE G. MILLER	Board Member
CURTIS ETHERLY, JR.	Board Member

Zoning Commission Members Present:

Carol Mitten	Commissioner
Anthony Hood	Commissioner

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Commission Staff Present:

Beverly Bailey	Office of Zoning
Clifford Moy	Office of Zoning
John K. A. Nyarku	Office of Zoning

Other Agency Staff Present:

John Moore	Office of Planning
Joel Lawson	Office of Planning
Stephen Mordfin	Office of Planning

D.C. Office of Corporation Counsel:

Lori Monroe, Esq.

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P-R-O-C-E-E-D-I-N-G-S

10:09 a.m.

CHAIRPERSON GRIFFIS: And let's call the first case in the morning.

MS. BAILEY: Mr. Chairman, the only case this morning is Application Number 17012 of Jemal's Benjo LLC pursuant to 11 DCMR 3103.2 for a variance from the building height provisions under Section 770, a variance from the floor area ratio requirements under Section 7701, a variance from the residential recreation space requirements under Section 773, and a variance from the rear yard requirements under Section 774 to permit the renovation of historic buildings from mixed use, that is, retail office and residential in the C2A district of premises 1301 through 1309 9th Street, NW. The property is located in Square 399 Lot 62, 63, 800, 801, 803, and 804.

All those persons wishing to testify would you please stand to take the oath? Please raise your right hand.

Do you solemnly swear or affirm that the testimony you're about to give in this proceeding will be the truth, the whole truth, and nothing but the truth?

WITNESSES: I do.

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1 MS. BAILEY: Thank you very much.

2 MR. GLASGOW: Good morning, Mr. Chairman,
3 members of the Board.

4 For the record, my name is Norman M.
5 Glasgow, Jr. of the law firm of Holland and Knight
6 here on behalf of the Applicant, Jemal's Benjo LLC,
7 the owner of property at 1301-09 9th Street, NW and
8 it's located at the intersection of 9th and N Streets.

9 Here with me today are Mr. Dennis Hughes
10 also of Holland and Knight, Mr. Paul Millstein on
11 behalf of the owners, Mr. George Robinson of Davis
12 Construction, Ms. Emily Eig of the -- the
13 architectural historian for the project, Ms. Melissa
14 Cohen of GTM Architects arranging boards and in the
15 audience are Mr. Lewis Bolan of Bolan Smart Associates
16 expert in land economics and Mr. Steven Sher expert
17 witness in land planning also of the law firm of
18 Holland and Knight.

19 Next, I would like to enter into the
20 record a request that Mr. Millstein and Mr. Robinson
21 be accepted as expert witnesses. Mr. Millstein for
22 construction management. Mr. Robinson for
23 construction costs and Melissa Cohen for architectural
24 -- her work with architecture in historic buildings
25 and those documents are going up to the Board.

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1 Also being offered as expert witnesses are
2 Ms. Eig, Lew Bolan, and Steven Sher all who have been
3 accepted as experts on many occasions by this Board.

4 CHAIRPERSON GRIFFIS: So, a room full of
5 experts. Huh?

6 MR. GLASGOW: Yes.

7 CHAIRPERSON GRIFFIS: Indeed. All right.
8 We're going to take a minute and just take a look at
9 this stuff quickly and we'll run down -- we'll take
10 them one at a time.

11 Also, just let me note, of course, as we
12 have cleared the rest of the morning, it doesn't mean
13 all that time needs to be taken by you, but this is
14 going to be complicated. There's a lot of issues that
15 we need to walk through.

16 So, the quicker we get into it the better
17 and what we'll probably end up doing, there's
18 substantial submissions and I don't need to repeat
19 myself, but I think it should be clearly known that
20 the Board has, in fact, read all of the materials
21 received. So, I guess the point being we may direct
22 you in certain areas that we need to get to fairly
23 quickly and then hopefully, we can move -- move ahead.

24 So, first, let's take up Ms. Cohen, GTM
25 Architects as being proffered as an expert witness in

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1 architecture.

2 MEMBER ETHERLY: And I believe, Mr. Chair,
3 that counsel for the Applicant also indicated
4 architecture and historic buildings for Ms. Cohen.

5 MR. GLASGOW: With historic buildings,
6 yes.

7 CHAIRPERSON GRIFFIS: Okay.

8 MEMBER ETHERLY: Okay.

9 CHAIRPERSON GRIFFIS: Architecture and
10 historic design.

11 Any questions of Ms. Cohen? Any concerns?

12 MEMBER ETHERLY: No objection, Mr. Chair.

13 CHAIRPERSON GRIFFIS: Any objection to
14 granting expert status to Ms. Cohen?

15 If no objection, we take it the consensus
16 of the Board.

17 Mr. Robinson? Mr. Robinson is coming in
18 as construction management. I'm sorry. I didn't --

19 MR. GLASGOW: Expert in construction
20 costs.

21 CHAIRPERSON GRIFFIS: Oh, indeed.
22 Construction costing. Okay.

23 Any questions of Mr. Robinson?

24 The -- the recent project experiences that
25 you list is -- is expansive and extensive rather I

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1 should say. I'm sure it's not all the ones that
2 you've done. I note some that I'm familiar with.

3 Are all of these historic or most of them
4 are as I'm noting just from my own personal
5 understanding of these.

6 MR. ROBINSON: I assume you're reading off
7 of my résumé that was provided.

8 CHAIRPERSON GRIFFIS: Yes.

9 MR. ROBINSON: No, not all of those are
10 historic.

11 CHAIRPERSON GRIFFIS: Okay. But, clearly
12 some -- a good portion of them are and it -- I guess
13 this would be -- as it directly to this application
14 most of these or perhaps a lot of these have existing
15 structures with work that happens those structures.

16 MR. ROBINSON: That is correct.

17 CHAIRPERSON GRIFFIS: Okay. Any concerns?
18 Any questions?

19 Can I take it as a consensus to grant
20 expert status in construction costing and pricing to
21 Mr. Robinson?

22 MEMBER MILLER: Yes.

23 CHAIRPERSON GRIFFIS: Very well. Oh, and
24 the ANC -- is the ANC represented today?

25 I'm going to ask -- obviously you're a

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1 party in this case by definition. If you have any
2 objection, if you would just make that known as we're
3 taking it up.

4 Do you have copies of all these materials
5 that have been given to the Board?

6 MR. PADRO: We have received all copies of
7 submissions.

8 CHAIRPERSON GRIFFIS: Okay. You've
9 received all copies of the submissions including the
10 résumés. But --

11 MR. PADRO: Except the résumés.

12 CHAIRPERSON GRIFFIS: Indeed and that's
13 being served to you right now. If you want to take a
14 quick moment and review those. If you have any
15 objection or concerns or questions, of course, you
16 should come to table and voice those.

17 I would delay a moment and let you review
18 those and we'll pick up Mr. Paul Millstein with the
19 development company in this application and also being
20 offered as construction management. That's correct?

21 MR. GLASGOW: Yes.

22 CHAIRPERSON GRIFFIS: Excellent.

23 MR. GLASGOW: Yes, sir.

24 CHAIRPERSON GRIFFIS: And any questions of
25 Mr. Millstein? Okay. Any concerns? I can take that

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1 as a consensus of the Board then to grant expert
2 status to Mr. Millstein in construction management.
3 Is that correct?

4 MEMBER ETHERLY: Yes, sir.

5 CHAIRPERSON GRIFFIS: Very well. Right.
6 Any questions of the others that have been proffered?
7 We have reviewed their materials in the past. We
8 have historic preservation expert, land use expert and
9 I'm sorry. The category of the last would be?

10 MR. GLASGOW: Land economics.

11 CHAIRPERSON GRIFFIS: Land economics. Any
12 questions?

13 COMMISSIONER MITTEN: No objections.

14 CHAIRPERSON GRIFFIS: Any objections?
15 Then we do have a room full experts.

16 Let's move ahead.

17 MR. GLASGOW: Thank you, Mr. Chairman. In
18 light of your discussion and it was a -- a matter that
19 -- that we as a team had discussed prior to coming to
20 the hearing. We -- we have also reviewed the two
21 reports from the Office of Planning.

22 We have reviewed the reports from the DDOT
23 and now, we understand and one thing that I wanted to
24 clarify that -- and I think the record is clear now,
25 but I wanted confirmation from the Board that there is

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1 no parking or loading variance request required in
2 this case and I believe that there was a submission
3 also from the Historic Preservation Branch and the
4 sign-off from there that -- that this is a project
5 that involves historic buildings that contribute to
6 the historic district and that was submitted by Mr.
7 Callcott.

8 CHAIRPERSON GRIFFIS: Okay. And we do --
9 we do have all of that information.

10 You're not asserting the fact though that
11 DDOT would establish whether zoning was correct or not
12 in its designation?

13 MR. GLASGOW: No.

14 CHAIRPERSON GRIFFIS: They're just
15 concurring the opinion that as a contributing
16 structures that, therefore, parking and loading would
17 not be required.

18 Let's bring it up now. I mean we need to
19 -- I think this is an issue that needs to be
20 addressed. It's a -- it's a complicated one based on
21 lots of things.

22 First of all, on previous procedure let's
23 say in the city and how things are viewed. The Board
24 has taken great time in looking at this and reading --
25 re-reading and discussing and perhaps even arguing a

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1 bit about the parking regulations.

2 Let me turn everyone's attention so that
3 we're all looking at the same thing. The 2001.5.

4 COMMISSIONER MITTEN: I think it's 2100.5

5 CHAIRPERSON GRIFFIS: Rather 2100.

6 MR. GLASGOW: 2100.5. Right.

7 CHAIRPERSON GRIFFIS: .5. Which would
8 bring us to the parking and, of course, it starts out
9 to say no additional parking spaces shall be required
10 for historic landmark or a building or structure
11 located in a historic district that is certified by
12 the state historic preservation officer as
13 contributing to the character of the historic
14 district.

15 That's, in fact, what you're relying on
16 today. Is that correct?

17 MR. GLASGOW: That is correct and if we
18 need to put into the record, Mr. Millstein and Ms. Eig
19 can testify that there are no existing parking spaces
20 on --

21 CHAIRPERSON GRIFFIS: Right.

22 MR. GLASGOW: -- any of the properties.

23 CHAIRPERSON GRIFFIS: I think that's where
24 it comes to be very complicated in the broader
25 spectrum of things and it seems to make some logic in

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1 looking at 2100.5 and that is you have a historic
2 building. It wasn't built with parking and -- and now
3 you're coming along and trying to do something with
4 it. How are you being asked to -- or how could you
5 conceivably provide parking? I mean most -- a lot of
6 buildings that are contributing in some of the
7 historic districts are nonconforming in many aspects.

8 Oftentimes lot occupancy is quite substantial if not
9 100 percent.

10 However, the Board has to continue reading
11 and has to look at 2100.6, also 2100.7.

12 Let me open this up to -- to the Board for
13 -- well, actually --

14 MR. GLASGOW: Well, can we make our -- you
15 want us to make our presentation on that?

16 CHAIRPERSON GRIFFIS: Yes, why don't you
17 -- indeed, why don't you do that?

18 MR. GLASGOW: Okay. Sure. The specific
19 provision in the regulations that deals with parking
20 and historic structures is 2100.5 and if it did not
21 apply to buildings where an addition was made, you
22 could just rely on the provisions in Title 20 or
23 otherwise where you would not be -- if you weren't
24 changing anything, you wouldn't be required to provide
25 any -- any parking.

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1 CHAIRPERSON GRIFFIS: You mean if you
2 weren't changing use or intensity?

3 MR. GLASGOW: Or the -- or the building.
4 That's right. You couldn't be required to provide
5 parking.

6 CHAIRPERSON GRIFFIS: That's correct.

7 MR. GLASGOW: So, the only construct under
8 which this section makes any sense is if there is
9 something being done with the property.

10 CHAIRPERSON GRIFFIS: Right.

11 MR. GLASGOW: Right. That there's been
12 some change and that's anticipated and we have had
13 many, many projects that have been reviewed by this
14 Board where there has been no parking relief required
15 or requested or loading relief when there has been a
16 historic building that's either a landmark or has been
17 certified as contributing to the historic district and
18 I guess if the Board wants to leave the record open
19 for that, we could submit a multitude of past BZA
20 applications where that has been done including the
21 Evening Star building, buildings at 910 and 916 F
22 Street, 920 to 930 F Street. I'm thinking of just
23 some that I've been to the Board in the past few years
24 where there's just no parking required with the
25 addition.

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1 With the Zoning Commission, the Woodward
2 Lothrop, PUD where we added, what, about 70,000 square
3 feet to the top. No -- no parking or loading required
4 there.

5 Mr. Sher --

6 CHAIRPERSON GRIFFIS: Okay. I mean I
7 think the Board's fairly familiar with a lot of the
8 cases that have happened and -- and that's why I -- I
9 started out saying one, there was -- there has been a
10 procedure. There has been a certain understanding.

11 How do you reconcile though looking at
12 2100.6 and you've touched on when things are
13 intensified be it use or --

14 MR. GLASGOW: Right.

15 CHAIRPERSON GRIFFIS: -- other. Is that
16 independent? Does that -- does that separate out?
17 That's about all other buildings that aren't historic?

18 MR. GLASGOW: Yes, that's correct. This
19 was --

20 CHAIRPERSON GRIFFIS: That's the way you
21 read it?

22 MR. GLASGOW: Yes, this was put in here
23 for the historic buildings.

24 CHAIRPERSON GRIFFIS: Was?

25 MR. GLASGOW: 2100.5.

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1 CHAIRPERSON GRIFFIS: .5 was historic.

2 MR. GLASGOW: With -- with historic.

3 CHAIRPERSON GRIFFIS: 2100.6 is for --

4 MR. GLASGOW: .6 is for all others.

5 CHAIRPERSON GRIFFIS: All those other
6 nonhistoric, noncontributing buildings.

7 MR. GLASGOW: Right.

8 CHAIRPERSON GRIFFIS: That's an
9 interesting way to read it.

10 Questions?

11 COMMISSIONER MITTEN: Mr. Chairman, as you
12 -- when you began, you said, you know, we need to look
13 at it -- a section of the ordinance in its entirety
14 and I -- I don't think that we can ignore 2100.7 which
15 says that when a building has been increased by more
16 than 25 percent, that there is a parking requirement
17 for the addition and I don't know what the past
18 practice has been.

19 I -- I don't believe I sat on any of those
20 decisions where there was a blanket waiver given for
21 parking spaces because a portion of the structure was
22 considered historic and I think the intention -- and I
23 think if you look at the history of the Zoning
24 Commission in putting these provisions in place, that
25 it was considered redundant to -- to have in a single

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1 -- in a single provision to make it clear that 2100.7
2 also applied to historic structures because the
3 section is to be read in its entirety.

4 So, I think there is a requirement for
5 parking for the addition notwithstanding --

6 CHAIRPERSON GRIFFIS: There are sections
7 in the regulations that give exemptions in an
8 individual -- individual subsection of the section and
9 if the -- the exceptions aren't overridden by
10 requirements through the rest of the section.

11 I mean I think -- I think this is -- it's
12 a fairly interesting and perhaps even correct, but I'm
13 not sure how you reconcile when all of a sudden the
14 regulations start specifying other ages of buildings.

15 You know, I mean, 2100.6, I don't follow the logic of
16 giving a date for buildings if it was, in fact, to
17 include historic.

18 COMMISSIONER MITTEN: I'm not focusing on
19 2100.6. I'm sorry.

20 CHAIRPERSON GRIFFIS: I understand.

21 COMMISSIONER MITTEN: I'm focusing on
22 2100.7.

23 CHAIRPERSON GRIFFIS: I understand.

24 COMMISSIONER MITTEN: I think the idea was
25 and we can -- we can research this further if you

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1 like, but the idea was that if you have a structure
2 and it is constrained because it's historic and it's
3 going to be more or less retained as it, then -- then
4 imposing a parking requirement if you change the use
5 or make a minor addition, that's not -- that's
6 counterproductive to preservation.

7 But, then when you have a situation where
8 there's the capacity to add some significant amount of
9 density and maybe I guess it was determined in the
10 past that that was 25 percent, then there's a new
11 opportunity to require parking because there's
12 obviously -- there's fewer constraints on a site where
13 you could build at least 25 percent additional
14 density.

15 Now, if the site is -- continues to be
16 constrained, that's where the variance case must be
17 made, but I think that was the intent.

18 CHAIRPERSON GRIFFIS: Hum.

19 COMMISSIONER MITTEN: I mean there's
20 plenty of examples that you can take it to the -- sort
21 of to the absurd -- to an absurd level and I -- and I
22 don't think that was the intent.

23 For instance, the Deminae Building, which
24 is a relatively small structure to which a large
25 office building was added. There's a building down at

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1 7th and Indiana Avenue where a similar -- a similar
2 situation took place.

3 I think that there was the intent that
4 there would be a waiver of parking for the office
5 building addition that's attached to a relative small
6 building. That's sort of taking it to an extreme.
7 But, I think that makes the point.

8 MR. GLASGOW: Mr. Chairman, could I add a
9 couple of things?

10 One, under the maxims of statutory
11 construction, you know, there's a provision that
12 specifically applies to an instance. It controls over
13 anything else that -- that may seem to conflict with
14 it particularly when the regulations at a whole can be
15 read to consistently apply and I know with the -- the
16 consistent application has been the application that
17 we're talking about today.

18 And it says in 2100.5 and if this were to
19 be rewritten, it should have been written in a
20 different way to be more consistent with -- with the
21 other interpretation that's being suggested. That's
22 why we started out with the factual condition here.
23 No -- no additional parking spaces shall be required
24 for a historic landmark or a building or structure
25 located in a historic district that is certified by

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1 the state historic preservation officer as
2 contributing to the character of that historic
3 district.

4 We have that situation.

5 CHAIRPERSON GRIFFIS: Right.

6 COMMISSIONER MITTEN: But, let's not --
7 let's not read that in isolation because --

8 MR. GLASGOW: No, but I --

9 COMMISSIONER MITTEN: -- but -- but what
10 comes before it is what sets it in motion which is
11 2100.4 which says except as provided in 2100.5. So,
12 2100.5 doesn't stand on its own and --

13 MR. GLASGOW: That's just where I was
14 going Ms. Mitten.

15 COMMISSIONER MITTEN: Okay.

16 MR. GLASGOW: I was going to say it should
17 have said underneath here. That's why I said there
18 should have been another provision that said for
19 2100.5. It should have said except as provided in
20 2100.6 or 2100.7 and it doesn't do that.

21 CHAIRPERSON GRIFFIS: Right.

22 COMMISSIONER MITTEN: But -- but the
23 trigger is 2100.4 and the trigger is a use change not
24 a physical addition to the building.

25 So, 2100.5 only applies when you change

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1 the use.

2 MR. GLASGOW: Well, we are changing the
3 use of some of these buildings.

4 COMMISSIONER MITTEN: But, the trigger for
5 the -- for the additional parking is increasing the --
6 the size by more than 25 percent. It's not a use
7 change that triggers it. It's something else.

8 So, I don't think you can read 2100.5 on
9 its own.

10 MR. GLASGOW: Well, I can only say that
11 the Zoning Administrator's office and the Board of
12 Zoning Adjustment has consistently for the past few
13 years. I think if it's something that the commission
14 wants to take up and deal with for in the future, I
15 mean I can understand that and have -- have the debate
16 and the discussion and have a -- have a new
17 interpretation or revision in the regulations.

18 But, these regulations went into effect in
19 the 1980s and now to come in this application suddenly
20 and say well, you have a new standard with respect to
21 the consistent interpretation of this provision and
22 the regulations as a whole as they apply to historic
23 buildings and landmarks that can -- historic buildings
24 that contribute to the historic district is something
25 that's -- it certainly different than what the Board

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1 and the Commission have done in the past.

2 I mean there has been a clear line of
3 consistent interpretation of these provisions in this
4 fashion.

5 COMMISSIONER MITTEN: Well, I can't -- I
6 can't speak to that because I don't believe that --
7 that I as a Board member have ever made that
8 interpretation and I -- I would just recommend to the
9 Chair that at least today, I -- I don't know what the
10 past history is and you have participated in many more
11 Board of Zoning Adjustment cases than I have, but I am
12 unwilling to make that interpretation and the rest of
13 the Board can do what they will.

14 CHAIRPERSON GRIFFIS: Correct and when I
15 opened up in saying that there's -- there's been past
16 procedure, I don't just mean the -- the rulings of the
17 BZA, but I think Mr. Glasgow's brought it up in terms
18 of the Zoning Administrator's interpretation and
19 reading of the regulations and -- and the common
20 practice is really what I was going to.

21 I think what we need to do first of all
22 we'll get to, but Office of Planning has laid out the
23 parking test and has said that it is a fairly strong
24 test for the Board to look at.

25 I would like to do this. Unless the Board

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1 is -- is prepared to decide this at this moment, which
2 I will gladly hear discussion on, I'd like to move
3 ahead with the application and you can -- I'm sure,
4 Mr. Glasgow, you have the ability to address the
5 parking.

6 MR. GLASGOW: Yes.

7 CHAIRPERSON GRIFFIS: And will do that and
8 in our decision making, we can finally decide what or
9 whether this application is to be amended to have the
10 parking included. That would mean, of course, that we
11 would -- or I would ask for additional briefing if
12 you'd like, Mr. Glasgow, to -- on the historic
13 parking.

14 MR. GLASGOW: Well, I think that we would
15 be prepared between the architects -- the
16 architectural historian and the Applicant to address
17 the size of the lot and that we need a parking -- a
18 waiver from the parking requirements and a waiver from
19 the loading requirements.

20 CHAIRPERSON GRIFFIS: Right.

21 MR. GLASGOW: We can -- we can touch on
22 those issues today and I know that the Office of
23 Planning report discusses it in -- in part.

24 CHAIRPERSON GRIFFIS: Good. You know,
25 that's what I want to do. We'll -- we'll address it

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1 today in the application. Then before we decide this,
2 we will be definitive of whether the application is
3 changed to reflect parking or not and I think --

4 MR. GLASGOW: Right.

5 CHAIRPERSON GRIFFIS: -- the Board will be
6 very definitive in that.

7 So, that being said, let's move ahead
8 unless there's other questions. Good. Let's -- let's
9 go.

10 MR. GLASGOW: With respect to the
11 application and this is -- this is really for the
12 members of the Board, we -- we have reviewed all of
13 the reports as I was discussing before and the case at
14 this point in time where there is disagreement between
15 the Office of Planning's position and the Applicant's
16 position is the use of the third floor.

17 We are prepared to go through as much
18 detail as the Board desires with respect to the other
19 variances that have been requested, but I note the
20 Office of Planning report is supportive of all those
21 including the FAR variance and the height variance and
22 the rear yard variance and then the question is within
23 the FAR variance, the use of the third floor is -- is
24 the question.

25 And we're at the Board's disposal on that

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1 as to how much additional information the Board deems
2 that its needs on those other issues or whether the
3 Board would want us to focus on the third floor.

4 CHAIRPERSON GRIFFIS: I think a good way
5 to address this and all of them is I know you've --
6 you've put in the written documents, but I would
7 address on the -- in the public hearing, the -- the
8 tests for all of the variances and then speak to how
9 the FAR -- the increase FAR fulfills those aspects of
10 the application. Obviously, the uniqueness, et
11 cetera.

12 MR. GLASGOW: Sure.

13 CHAIRPERSON GRIFFIS: What's moving you to
14 increase the FAR on this?

15 MR. GLASGOW: All right. We will -- we
16 will touch on those issues. I understand that the --
17 the statement of Applicant is a part of the record in
18 the case.

19 CHAIRPERSON GRIFFIS: Correct.

20 MR. GLASGOW: And we would encourage the
21 Board during the testimony of the witnesses if there
22 is some area that you want us to dwell on a little bit
23 further obviously to -- because we've got a lot of
24 witnesses and we've got a lot of testimony. I want to
25 make sure that the questions -- normally we go through

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1 the panel --

2 CHAIRPERSON GRIFFIS: Right.

3 MR. GLASGOW: -- and then we get all the
4 questions at the end. I've -- if the Board desires --

5 CHAIRPERSON GRIFFIS: We'll -- not to
6 worry.

7 MR. GLASGOW: -- we can go ahead. Move on
8 that. All right.

9 We also note that the Advisory
10 Neighborhood Commission is in support of the
11 application. Mr. Padro is here to testify in support
12 and also, significantly with respect to this -- to the
13 issue on the third floor, we will be submitting a set
14 of revised third floor plans today that the architect
15 has worked on.

16 We have been talking with Mr. Moore of the
17 Office of Planning. We believe that we have a way of
18 -- well, we are addressing the concern which was the
19 split between the commercial and the residential with
20 respect to the FAR variance. The overall FAR variance
21 is supported by the Office of Planning.

22 CHAIRPERSON GRIFFIS: Understand.

23 MR. GLASGOW: The question is -- the
24 question is what percentage is office and what
25 percentage -- and they're suggesting convert the third

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1 floor from office to residential.

2 CHAIRPERSON GRIFFIS: And that with the --
3 that's what the revised plans are going to show?

4 MR. GLASGOW: The revised plans will show
5 that we will -- we have developed a floor plan which
6 will convert half of the third floor to residential
7 and half would be office.

8 CHAIRPERSON GRIFFIS: I see.

9 MR. GLASGOW: So, we are moving in the
10 direction that the Office of Planning has requested.
11 They are -- they have encouraged us in those efforts
12 and encouraged us to -- to file these plans for the
13 Board's consideration today on that matter.

14 And with that submission which will be
15 made by -- Mr. Millstein will introduce the plans and
16 then we will have -- Melissa will -- will testify as
17 to them and explain the plans.

18 We originally had a commercial FAR in the
19 project. I'm sorry.

20 CHAIRPERSON GRIFFIS: Go ahead.

21 MR. GLASGOW: We -- the original -- the
22 original proposal of the Applicant was for 2.96
23 commercial FAR. That would be reduced to 2.39
24 commercial FAR.

25 The Office of Planning with -- with the

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1 two floors that they're suggesting would be at about 2
2 FAR. That's -- that's their most recent report.

3 CHAIRPERSON GRIFFIS: Two FAR residential?

4 MR. GLASGOW: No, 2 FAR commercial. I'm
5 on the commercial side right now.

6 CHAIRPERSON GRIFFIS: I see. Okay.

7 MR. GLASGOW: Our original proposal was
8 2.96.

9 CHAIRPERSON GRIFFIS: 2.96. Right.

10 MR. GLASGOW: Their -- their report into
11 the record was saying due to the first two floors
12 which are about 100 percent lot occupancy. So,
13 there's -- I'm going to call that about 2 FAR.

14 CHAIRPERSON GRIFFIS: I got you.

15 MR. GLASGOW: All right. And then with
16 the revised Applicant's proposal today, we have
17 reduced the 2.96 to 2.39 FAR of commercial.

18 With respect to the residential, the
19 initial submission was about .86 FAR. That's going to
20 be increased by about a half an FAR to 1.36 FAR. So,
21 that's being increased from .86 to 1.36 FAR.

22 CHAIRPERSON GRIFFIS: Okay.

23 MR. GLASGOW: Mr. Moore, I'm going through
24 the -- the FAR changes with the revised -- for the
25 revision that we've been talking about.

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1 Just very briefly, we were at 2.96 FAR
2 commercial. OP was at about 2 FAR commercial. With
3 the revised plans, we're at 2.39 FAR commercial with
4 splitting the third floor.

5 On the residential end, the original
6 proposal was .86 FAR and with the half an FAR
7 increase, we would then be at 1.36 FAR.

8 And we will be submitting those plans for
9 the Board's consideration today.

10 CHAIRPERSON GRIFFIS: Good. Two things.
11 Going back to the parking while you're doing all these
12 calculations, do you have a breakout of the increase
13 of the addition in proportion to the original
14 building?

15 MR. GLASGOW: I will have -- let's see.

16 CHAIRPERSON GRIFFIS: Just yes or no. I
17 mean --

18 MR. GLASGOW: No, I don't have that. But,
19 we can --

20 CHAIRPERSON GRIFFIS: Right. That's
21 something we'll need while I think of it.

22 MR. GLASGOW: There will be enough
23 witnesses that we will be able to provide that.

24 CHAIRPERSON GRIFFIS: Then the other
25 thing, let's -- let's take FAR right now and so --

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1 MR. GLASGOW: Right.

2 CHAIRPERSON GRIFFIS: -- why don't you
3 walk through the whole piece. Lay out again the
4 written submission in terms of the test and then we'll
5 just start addressing --

6 MR. GLASGOW: Sure.

7 CHAIRPERSON GRIFFIS: -- both of the
8 issues within that --

9 MR. GLASGOW: All right.

10 CHAIRPERSON GRIFFIS: -- one the increase
11 and one the use or the distribution I should say.

12 MR. GLASGOW: Yes, that will be done
13 through several of the witnesses.

14 CHAIRPERSON GRIFFIS: Okay.

15 MR. GLASGOW: With respect to the state of
16 the property, issues related to the -- to the
17 property, the work with the -- with the community and
18 with the Historic Preservation Review Board all led to
19 the building. I'm just now talking about the envelope
20 of the building that we have here today and, Mr.
21 Millstein, would you please identify yourself for the
22 record and talk about the building's characteristics
23 and respond to that question.

24 MR. MILLSTEIN: Good morning. Paul
25 Millstein, Vice President of Douglas Development

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1 Corporation and my functions and duty with the company
2 for the last 14 years have been predominately the
3 acquisition of properties and then the redevelopment
4 and repositioning of those properties once they're
5 complete.

6 I've handled all the historic projects for
7 this company in the last 14 years which is quite a few
8 of them, the park and shop and the Spy Museum and
9 we're doing Woodies now and tax credit projects and
10 7th Street, the block of the MCI Center. Some -- some
11 real good stuff.

12 This project we acquired it approximately
13 three years ago and I really never even looked at it
14 prior to buying it. It was handled by the owner of
15 the company which is not atypical.

16 When I first came to it, I got a call from
17 HPRB. Steve Callcott was in the neighborhood and a
18 gentleman named Clark Ray who works up in that
19 neighborhood and said you've got a big problem out
20 there. These buildings are falling down. There was a
21 lot of trash and debris in the rear lots. There was
22 people living in them. He was trying to get them
23 boarded up and cleaned out.

24 We went up there right there away and had
25 a meeting and saw that a couple rears of the buildings

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1 were in horrible shape and were actually falling in.
2 So, we immediately called Emily Eig of HT Traceries to
3 -- to get some historical documentation in place and
4 we began to stabilize the structures.

5 And what I -- what I came to realize that
6 these are some magnificent buildings in horrible
7 shape. The wood had been completely deteriorated.
8 The roofs had been left in disrepair for years. The
9 mortar joints were turned to dust. They had trees
10 growing out of the inside of the buildings and I knew
11 we had quite a challenge on our hands to restore these
12 buildings.

13 This project -- at the time they brought
14 the building inspector up, Mr. Juan Scott, and really
15 considered condemning them and razing them. They --
16 they were that much of a hazard falling into the
17 street. There's a lot of construction going on at the
18 Convention Center at the time and we didn't want to
19 see that happen.

20 Now, I can tell you that from a
21 development standpoint, I don't need to tell you.
22 That's -- that's an advantageous situation if they
23 were to be condemned and razed because we've be
24 starting from a piece of ground.

25 But, that's not what we do at Douglas

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1 Development. We've never razed an historic structure
2 in -- in the history of our company. We happen to
3 think these buildings are magnificent. They just need
4 a lot of work and time and money.

5 So, then we began the process of looking
6 at what we could do to restore these buildings and
7 still make a viable economic project out of this
8 block.

9 We've spent two years with the community.
10 I've been to those community meetings for two years
11 working out a project that made everybody happy we
12 believe. In -- in fact, we have because we've gotten
13 unanimous support from all the ANC single member
14 districts and all the community members in the area.
15 Not one bad thing about it.

16 We think it's a neat, boutique project,
17 but at the end of the day, the success of the project
18 and whether it goes forward or not is not determined
19 by this Board or by this developer but by the lenders.

20 We can't finance these projects out of cash out of
21 pocket. They have to be financeable. They have to
22 stand on their own to meet a lender's scrutiny so that
23 they can be developed.

24 This is a substantial project. It's a
25 substantial restoration and we -- we try to work very

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1 delicately with the HPRB and the Board and the
2 community to get something that works for everybody.

3 We think we've done that. We tried most
4 recently to respond to OP's most recent submission on
5 Friday with a compromise. We think we've done that.
6 We've had favorable response from Office of Planning.

7 They need a written submission and we're going to
8 forward that to them so they can make a final
9 decision.

10 But, as we sit here today, we have a
11 project that we think if really nice. It is
12 financeable. It is buildable if it's approved the way
13 we've submitted with the exception of splitting the
14 third floor which we intend to do and we can go
15 forward. We have a lender that will step up and go
16 and this can get done. This building's been sitting a
17 long time and we're excited about it.

18 It's not a get rich project. It's very
19 small. You guys have seen the project and the
20 submissions, but it's a great project. It'll have ten
21 residential units in it that are reasonably affordable
22 for that area. It'll have some really nice two-story
23 walkup with an elevator funky office space that we
24 actually occupy on 7th Street and like it very much
25 and it'll have some great retail. Right across from

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1 the Convention Center, but yet in a residential
2 community which makes it a little bit trickier. So,
3 it's kind of got the best of all the worlds just
4 little bits of it.

5 Unfortunately, the construction costs are
6 exorbitant. We have to pin the facades in total. Do
7 a complete structure to hold the facades up. Do a lot
8 just to stabilize them when we build the rear of the
9 site out. The mortar joints as I said are dust. The
10 windows have to be replaced. Each joist has to be
11 taken out, replaced with a joist in kind, joist by
12 joist. It's a hand-pick job and that drives the
13 construction expenses up and Mr. Robinson can testify
14 to those in detail if you -- if you'd like.

15 But, you know, these are the facts. They
16 just -- it has to work at the end of the day and we
17 think what we've put forward hopefully works for
18 everybody as well as this Board because we'd like to
19 go forward. It's a great project.

20 And that's really where I am.

21 CHAIRPERSON GRIFFIS: Good. Thank you
22 very much.

23 The replacement in kind of the interior
24 structure, is that something that's required?

25 MR. MILLSTEIN: Yes.

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1 CHAIRPERSON GRIFFIS: By the Historic
2 Preservation?

3 MR. MILLSTEIN: Yes, this is not a
4 facadomy. We are going to restore. These structures
5 are going to be restored with similar materials and
6 placement in kind in total.

7 CHAIRPERSON GRIFFIS: These are actually
8 designated structures then not contributing?

9 MR. MILLSTEIN: They are contributing to
10 the historic district.

11 CHAIRPERSON GRIFFIS: And so, the Historic
12 Preservation Board though has stepped inside the
13 building to regulate the elements of the interior of
14 the building?

15 MR. MILLSTEIN: Well, we -- we have -- we
16 have agreed to do that as part of the restoration of
17 the building.

18 CHAIRPERSON GRIFFIS: I understand that.
19 Yes, I'm just asking if that's actually what they've
20 done.

21 MR. MILLSTEIN: Well, when we went to the
22 Board, they -- Ms. Eig -- Ms. Eig can answer that
23 question. That's one of the reasons why we have so
24 many experts.

25 MS. EIG: What the situation is is that

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1 when buildings are designated as or properties are
2 designated as landmarks where there are contributing
3 buildings, it is not as is commonly popularly known as
4 an exterior designate. There is no such thing.

5 Properties are designated. Buildings are
6 included in that. We only monitor the exterior work,
7 but we also monitor the structural work. So, if you
8 think of a building as a structure, walls around the
9 structure and then the finishes of the interior, it is
10 only the finishes of the interior that are not
11 monitored.

12 CHAIRPERSON GRIFFIS: So, these have been
13 registered as contributing structures or these are
14 actually designated --

15 MS. EIG: They're contributing structures,
16 but it is --

17 CHAIRPERSON GRIFFIS: -- historic
18 buildings?

19 MS. EIG: They are contributing structures
20 to the historic district, but no building can have
21 demolition of parts of its -- of its structure --

22 CHAIRPERSON GRIFFIS: I understand that.

23 MS. EIG: -- without permission of the
24 review board.

25 CHAIRPERSON GRIFFIS: So, what you're

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1 saying --

2 MS. EIG: And this is the case where the
3 structure of these buildings are in such bad condition
4 that they have to be taken out and replaced. To do so
5 by just gutting the building would constitute
6 demolition and it is not the intention of anyone to
7 demolish these buildings. It's rather to repair in
8 kind.

9 CHAIRPERSON GRIFFIS: That's your -- if --
10 if the entire shells of these buildings and the
11 exterior, the facades, were maintained, but the
12 interior was reconfigured or removed, that would be a
13 demolition?

14 MS. EIG: The floors of these -- if all
15 the floors of these buildings would be removed, it
16 would constitute a demotion by our code. Yes.

17 CHAIRPERSON GRIFFIS: Interesting. Okay.

18 MR. MILLSTEIN: We're going to, in fact,
19 maintain that the different floor levels --

20 CHAIRPERSON GRIFFIS: Right.

21 MR. MILLSTEIN: -- between building to
22 building --

23 CHAIRPERSON GRIFFIS: I understand that.

24 MS. EIG: And so -- and it's more. It's
25 that the -- the staff is well aware -- Mr. Callcott is

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1 well aware of the level of the condition of these
2 building and --

3 CHAIRPERSON GRIFFIS: Right.

4 MS. EIG: -- the effort that is to be made
5 to make sure that we don't get into a demolition --

6 CHAIRPERSON GRIFFIS: I'm not questioning
7 that. I'm --

8 MS. EIG: -- issue.

9 CHAIRPERSON GRIFFIS: That's probably why
10 I don't sit on the HPRB. But, I don't agree with that
11 designation or the jurisdiction to go in, but any --

12 MS. EIG: Well, they're not --

13 CHAIRPERSON GRIFFIS: Let's move on.

14 MS. EIG: You have to realize -- but, you
15 should understand that it's not that they're saying
16 that they're going to monitor this in a different way
17 that they monitor any building. Anyone who would come
18 up and want to remove entire floors, the structural
19 system. We're not talking about the -- the oak --

20 CHAIRPERSON GRIFFIS: Okay. We -- we
21 won't argue that here.

22 MS. EIG: -- wood that might be on it.
23 We're talking about the structure.

24 CHAIRPERSON GRIFFIS: I can -- I'm aware
25 of court cases that would disagree with you on that,

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1 but let's -- let's move on.

2 MS. EIG: Okay.

3 CHAIRPERSON GRIFFIS: Because that's --
4 the case in point for us today is yes, you're going to
5 get a couple of big guys out there and change these
6 joists and put them back in. That being said -- and
7 -- and actually, that's one of the uniquenesses of --
8 of this application, the submission, is the different
9 floor levels.

10 You went through quickly. I think you
11 said you occupy office buildings like this.

12 MR. MILLSTEIN: Yes.

13 CHAIRPERSON GRIFFIS: You were saying it's
14 funky office. What does that actually mean?

15 MR. MILLSTEIN: Well, I don't know that
16 there's a true definition for funky other than my own.

17 CHAIRPERSON GRIFFIS: Well, let's check
18 the regulations.

19 MR. MILLSTEIN: I think that's a safe bet.
20 It's not 21st and K. It's not eight-foot ceilings
21 and contiguous floors and windows on two or three or
22 four sides if you happen to be that lucky.

23 It's -- it's -- it's some exposed brick.
24 It's wood floor systems instead of concrete and steel.

25 Wood floor systems -- floor system. Excuse me. It's

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1 differing elevations and then accommodating the ADA
2 issues associated with that.

3 CHAIRPERSON GRIFFIS: So, it's different
4 floor levels. So, you could walk across one --

5 MR. MILLSTEIN: Yes.

6 CHAIRPERSON GRIFFIS: -- one office. I
7 mean like this room has one floor level. These all
8 have different floor levels.

9 MR. MILLSTEIN: Yes, and step down and
10 step up --

11 CHAIRPERSON GRIFFIS: Okay.

12 MR. MILLSTEIN: -- in other areas which
13 again we -- we think is an amenity to someone who
14 likes that corky, boutiquy, funky. Find a definition
15 for any of the three.

16 You know, if they want to go 21st and K,
17 that's a different project.

18 CHAIRPERSON GRIFFIS: Right.

19 MR. MILLSTEIN: But, that's what this
20 project is.

21 CHAIRPERSON GRIFFIS: Which actually goes
22 to one of the uniqueness then, the practical
23 difficulty in the rear yard, but what you're here for
24 and that is moving the core back because you had
25 mentioned briefly in the written submission or maybe I

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1 didn't focus enough on it, but the -- the fact that
2 you just brought up ADA.

3 MR. MILLSTEIN: Yes.

4 CHAIRPERSON GRIFFIS: That's obviously the
5 transitions that would be required to get --

6 MR. MILLSTEIN: Yes.

7 CHAIRPERSON GRIFFIS: -- handicapped
8 persons through.

9 MR. MILLSTEIN: Correct.

10 CHAIRPERSON GRIFFIS: Require that the --
11 the elevator be in the new portion which would set it
12 at --

13 MR. MILLSTEIN: Right.

14 CHAIRPERSON GRIFFIS: -- the single
15 levels.

16 MR. MILLSTEIN: That's right.

17 CHAIRPERSON GRIFFIS: Okay. All right.
18 Let's proceed.

19 MR. GLASGOW: Are there any further
20 questions for Mr. Millstein? Hearing none, we'll now
21 proceed to the testimony of Mr. Robinson.

22 Could you discuss the complexity -- the
23 construction complexities and costs with respect to
24 this project?

25 MR. ROBINSON: As -- as Mr. Millstein has

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1 previously pointed out, the complexities of -- of
2 shoring and maintaining the facades and building the
3 interior structures are adding a great deal of cost to
4 the -- to the baseline of the project.

5 CHAIRPERSON GRIFFIS: What is shoring?

6 MR. ROBINSON: Shoring is a term for
7 supporting either a floor or a wall and footing
8 condition of these buildings. We have found in
9 similar structures as in 800 F Street and the 900
10 series F Street buildings that we have to go in and
11 literally undermine the existing footings and then --
12 then underpin them and then build a framework up both
13 sides of the -- the facades to hold the facade in
14 place while we do work inside the -- the existing
15 building.

16 CHAIRPERSON GRIFFIS: Is that clear? So,
17 you're like building another structure around these
18 buildings to hold them up while you do the work?

19 MR. ROBINSON: Yes, sir.

20 CHAIRPERSON GRIFFIS: I got --

21 MR. ROBINSON: You're literally building a
22 structure front and back of the existing facade.
23 Often penetrating the interior floors to set it up and
24 then you -- you renovate the -- the facade, hold it in
25 place, repair the existing structure inside of the

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1 facade.

2 CHAIRPERSON GRIFFIS: Okay.

3 MR. ROBINSON: And then remove the shoring
4 at a later date.

5 CHAIRPERSON GRIFFIS: Okay.

6 COMMISSIONER MITTEN: Can I just a -- is
7 it -- that's a fairly common practice when you're
8 renovating historic buildings?

9 MR. ROBINSON: Yes, ma'am, especially
10 masonry-style buildings like this. It's -- it's a
11 little bit simpler process when the buildings are made
12 of wood, wood structures because you can -- you can
13 insert wood where the wood has -- has given way or has
14 been degraded. But, in this -- in the cases like
15 this, you can't allow the structure to move or your
16 masonry will crack and you'll start experiencing other
17 problems that you'll have to repair. So, you
18 literally brace it with steel on the front and back
19 sides.

20 CHAIRPERSON GRIFFIS: But, you're
21 anticipating the potential of the masonry, the
22 facade's moving because you have the -- the unique
23 situation that you have to remove all that interior
24 and you have to replace it in kind. Is that correct?

25 MR. ROBINSON: That's correct. Right now

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1 the condition of the building as we have looked at
2 them is -- is that there's going to be a lot of work
3 on the interior to -- to repair the floor structure
4 and the floor systems --

5 CHAIRPERSON GRIFFIS: Okay.

6 MR. ROBINSON: -- to get them back to
7 their condition.

8 MR. MILLSTEIN: And -- and again, it would
9 be typical in many historic restorations to do a
10 facade pinning, but now with the amount of interior
11 construction that would normally be in place. These
12 buildings remain. So, when the interior of the
13 buildings typically remain, you would not have to pin
14 the facades. You could simply build the new
15 construction to the rear. But, since the -- the guts
16 are coming out, you have to pin the facade.

17 CHAIRPERSON GRIFFIS: You just said two
18 things. There is some uniqueness to this. It is not
19 necessarily typical of the --

20 MR. MILLSTEIN: No.

21 CHAIRPERSON GRIFFIS: -- of the extent of
22 what you have to do.

23 MR. MILLSTEIN: Correct. Because
24 typically if you -- if you -- if you're not doing a
25 facadomy and you're leaving the buildings in place,

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1 the buildings themselves would hold the facade in
2 place.

3 But, in this particular project, you're
4 actually doing a joist-by-joist replacement of the
5 interior which subjects the front wall to weakness and
6 potential failure.

7 CHAIRPERSON GRIFFIS: Okay. So, you're
8 saying that the floors obviously are structural. They
9 hold up the walls and they hold the diaphragm of the
10 building so it doesn't cave in on itself.

11 MR. MILLSTEIN: That's correct. That's
12 right.

13 MR. ROBINSON: In addition to --

14 CHAIRPERSON GRIFFIS: Did you have an
15 expert structural engineer today?

16 MR. MILLSTEIN: I did -- oh, not today.
17 I'm sorry.

18 CHAIRPERSON GRIFFIS: I'm just kidding.
19 Come on. Let's move on.

20 MR. ROBINSON: In addition to maintaining
21 the facades and holding them in place, to be able to
22 take the interior structure out, we will probably have
23 to underpin any of the return walls that come off of
24 the facades.

25 CHAIRPERSON GRIFFIS: What does that mean

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1 underpin?

2 MR. ROBINSON: Underpin means literally to
3 go in and dig out from under the wall to excavate
4 underneath the footing and then to -- to either fill
5 back a concrete pit to support that footing or insert
6 a steel pile called a bracket pile to carry the load
7 of that wall so that it doesn't move and give way.

8 CHAIRPERSON GRIFFIS: So, you have to hold
9 up the facades that are obviously hanging out there
10 and you have to support the -- the foundation of this
11 building also.

12 MR. ROBINSON: That's correct and -- and
13 especially if we have an elevation change in the
14 basement level to excavate for modern utilities or
15 drainage lines, storm systems, that -- that sort of
16 thing. Then it would require that we would undermine
17 and underpin these footings to keep them in place.

18 CHAIRPERSON GRIFFIS: Okay. And as stated
19 -- Mr. Millstein pointed out the fact that these were
20 almost on the block to be razed by the city which is a
21 whole other procedure we could question, but that's
22 out of our jurisdiction.

23 So, just the structural integrity as they
24 are now is in question.

25 MR. ROBINSON: That is correct. It's

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1 going to take a lot of work to put them back to where
2 they will be --

3 CHAIRPERSON GRIFFIS: Okay.

4 MR. ROBINSON: -- a safe structure.

5 CHAIRPERSON GRIFFIS: And that's -- and
6 that's -- okay.

7 Well, it goes without saying that's not
8 typical of all contributing buildings that they're all
9 falling apart or the backs of which. We have
10 photographs that the backs of these are gone or some
11 of them all actually not there.

12 MR. ROBINSON: Yes.

13 CHAIRPERSON GRIFFIS: Okay. All right.
14 Let's move ahead.

15 MR. ROBINSON: I apologize if it was
16 misleading to say it was typical of all buildings.
17 It's typical for this type of building and -- and the
18 800 F Street and the 900 series F Street that we were
19 comparing it to.

20 CHAIRPERSON GRIFFIS: Right.

21 MR. ROBINSON: That -- that's what I was
22 referring to.

23 CHAIRPERSON GRIFFIS: I see.

24 MR. ROBINSON: The -- in addition to this,
25 we will have to open the backs of the buildings to --

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1 to bring the slabs of the new structure that's
2 proposed here into them and -- and support the --
3 those openings. Then we have the new construction
4 behind this which has to be isolated from their
5 buildings that will go into the ground, the footings
6 that will be -- be set for the new building and then
7 we will tie the two structures together as they go up
8 and then tie the roof lines in at the different levels
9 where we have roofs and all this is contributing
10 somewhat to the -- to the cost of the project.

11 CHAIRPERSON GRIFFIS: Is the addition also
12 wood frame or is it steel?

13 MR. ROBINSON: The addition is -- is steel
14 and concrete and fill --

15 CHAIRPERSON GRIFFIS: Right. Okay. Okay.
16 What else?

17 MR. ROBINSON: Then -- then we have --
18 then you basically have the -- the new office -- I'm
19 sorry, the new building that's constructed behind with
20 the new amenities, the HVA systems and then the
21 finishes of the ten apartments that are scheduled to
22 go into the -- into the structure as they're currently
23 drawn.

24 CHAIRPERSON GRIFFIS: Okay. Any
25 questions?

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1 MR. GLASGOW: Mr. Robinson, did you -- you
2 did a breakdown of the -- the cost per square foot of
3 construction on this project?

4 MR. ROBINSON: Yes, sir.

5 MR. GLASGOW: What was that number?

6 MR. ROBINSON: It was around \$275 per
7 square foot.

8 MR. GLASGOW: And is that an extremely
9 high construction cost for a -- for one of these types
10 of projects?

11 MR. ROBINSON: For one of these types of
12 projects, no, it's very similar to the ones that we --
13 we defined at the beginning of this -- this 800 F
14 Street.

15 MR. GLASGOW: I thought that those
16 projects were at about \$190 a foot?

17 MR. ROBINSON: They were at a \$190 a
18 square foot except a lot of them did not involve the
19 -- the intensive shoring that these buildings are
20 going to have.

21 MR. GLASGOW: Right.

22 MR. ROBINSON: Some did. Some did not.

23 MR. GLASGOW: So, the total cost of this
24 project at 275 versus 190 is -- this -- this project
25 is unique and has a higher cost from that standpoint.

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1 MR. ROBINSON: That's correct.

2 MR. GLASGOW: All right.

3 COMMISSIONER MITTEN: I'm just looking to
4 find the page on which the incremental costs that you
5 identified that's associated with the -- I just want
6 to be clear \$1,650,000. Is that the incremental cost
7 associated with all things related to preserving the
8 structures or the atypical?

9 This was -- this would be on page six of
10 the statement of the Applicant.

11 MR. GLASGOW: Are you referring to the
12 line that calls out a construction and design
13 contingency on historic? Which --

14 COMMISSIONER MITTEN: Are you looking at
15 Exhibit K? Are you looking at a chart? Okay.

16 MR. GLASGOW: Exhibit K. Yes, ma'am.

17 CHAIRPERSON GRIFFIS: What -- what she's
18 referring -- just to make sure. It's page six. The
19 last sentence in that paragraph reads "For the project
20 these exceptional preservation related contingencies
21 add more than \$1,650,000."

22 MR. GLASGOW: Okay. So -- so, we are
23 looking at the contingency line item for the historic
24 and the design and the -- the construction and -- and
25 what we're saying here is that is really unforeseen.

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1 That could include the underpinning that I was
2 referring to, the additional shoring that may take
3 place depending upon how extensively damaged the
4 interior structure is. So --

5 COMMISSIONER MITTEN: Okay. So, the
6 1,650,000 is relative to what would be a typical
7 historic restoration project or relative to a
8 nonhistoric project?

9 MR. GLASGOW: It -- it would not be -- it
10 would not be relative to --

11 COMMISSIONER MITTEN: What's it relative
12 to?

13 MR. GLASGOW: What it's relative to is the
14 condition of the existing structure and not being able
15 to tell to what degree the repairs will be required in
16 the structure.

17 To say that it's typical of any other
18 structure just because it's historic or nonhistoric,
19 it's very difficult to define it in that means. If
20 you -- if you see the inside of this building, it's --
21 there's a lot of unknowns here that we have to put
22 into a contingency basis.

23 Is it typical to 800 F Street and to some
24 of the buildings on the 900 F Street areas that we've
25 taken apart, there are some similarities. But, to say

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1 it's typical of all historic renovations, I'm not sure
2 that's -- that's something that we can say.

3 CHAIRPERSON GRIFFIS: So, your point is
4 there are specific -- site specific aspects that
5 you're anticipating which --

6 MR. GLASGOW: That's correct.

7 CHAIRPERSON GRIFFIS: There are unique
8 aspects in these structures. The point is altogether
9 that you're anticipating will be more costly.

10 MR. GLASGOW: That -- that's -- that's
11 correct and I -- and I can't say that this cost per se
12 is typical to every historic. Because it may not be.

13 MR. MILLSTEIN: If I may, I can clearly
14 say that this is very atypical in the fact that I
15 don't know of any development in the last ten years
16 that I've seen in this area that would take on this
17 amount of restoration in such a small footprint. This
18 building approximately nets out 40,000 square feet.
19 That is a small project.

20 I don't -- you know, I'm not aware of
21 anyone that had to do this level of restoration and
22 repair just to gain a 40,000 foot project and that's
23 what makes it very atypical. 800 F Street, the Spy
24 Museum, we had a 74,000 square foot office building
25 behind it. So, made all that restoration a little

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1 more stomachable and made the numbers not so great.

2 Which driving this number of the 270 a
3 foot is that you don't have the massive new
4 construction to balance it out. It's a very limited
5 amount of new construction. So, the numbers are way
6 out of whack and that's what happens and that's what's
7 atypical about this particular project, the size.

8 COMMISSIONER MITTEN: Okay. I'm just
9 trying to sort out -- I just want to sort out two
10 things now since you mentioned -- do you feel that
11 HPRB is being in anyway -- what you -- one of the
12 things that you just said was you don't know of any
13 other developer who would undertake this level of
14 renovation on a project of this size. So, is that
15 because HPRB doesn't typically require it or it's just
16 a coincidence that in this particular -- or it's just
17 a circumstance of this particular case that there is
18 no opportunity for offsetting new construction?

19 MR. MILLSTEIN: Candidly, Ms. Mitten, I --
20 I find that HPRB has a changing degree of requirements
21 every time I go before them. Nothing seems to be
22 consistent.

23 COMMISSIONER MITTEN: Okay.

24 MR. MILLSTEIN: And no matter what project
25 I take before them, it's the most significant historic

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1 projects in the city.

2 COMMISSIONER MITTEN: Okay.

3 MR. MILLSTEIN: Held to a whole other
4 level of scrutiny. I think the setbacks are insane on
5 this project. I think the level of restoration is out
6 of line, but we could have a whole another discussion
7 about the HPRB process.

8 CHAIRPERSON GRIFFIS: Why don't we break
9 and have that? No, wait a minute.

10 COMMISSIONER MITTEN: Well, I'm just
11 trying to --

12 CHAIRPERSON GRIFFIS: Indeed.

13 COMMISSIONER MITTEN: -- understand.

14 CHAIRPERSON GRIFFIS: Yes.

15 COMMISSIONER MITTEN: Okay. So -- okay.
16 I -- I hear what you just said.

17 MR. MILLSTEIN: Okay.

18 COMMISSIONER MITTEN: And then, Mr.
19 Robinson, what I'm trying to sort out is there's an
20 argument being made -- I mean this is ultimately the
21 argument I think for the additional density that there
22 are -- that there are unusual circumstances that sort
23 of rise above what is typical for a historic
24 restoration project because of the very unusual
25 circumstances here with deterioration, the size of the

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1 site, the amount of restoration that's being required,
2 and so forth and so, it's -- and it's that increment
3 that I believe if there's any argument -- if there's
4 -- if there is a legitimate economic argument to be
5 made that it's against that increment not against the
6 total.

7 So, that's why I'm -- I'm trying to be
8 real precise about what the 1,650,000 represents.

9 MR. ROBINSON: I understand your question
10 and it's not an easy question to answer, but by using
11 the words typical -- because as Mr. Millstein has
12 pointed out, every time he goes before the -- the
13 Board for review, they talk about typical projects.
14 It's not.

15 If we go back and look at the projects
16 that have been talked about to date, the 900 F Street
17 projects are just a single facade held up by a steel
18 structure. They will then be tied into a new concrete
19 structure and there's very little renovation cost
20 because they were saved in their entirety except for
21 the windows. So, the windows will be matched to
22 historic styles.

23 The 800 F Street, you had three buildings
24 that -- that needed very little interior renovation.
25 You had two that had to be completely dismantled brick

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1 by brick and then reassembled with the same brick
2 using similar mortars. That kept the cost of 74,000
3 square foot addition somewhat lower than this one.

4 This one we're assuming we're going to go
5 in and we're going to shore all the facades up. We're
6 going to completely dismantle the interior structure
7 and once we dismantle that interior structure, we're
8 not sure if we can put it back together the way it was
9 put together a hundred years ago. We may have to use
10 some modern systems to hold it back together, but it's
11 going to be up to whether the Historic Board is going
12 to approve some of these -- these reconstruction
13 methods. But, we will try to use everything we can
14 there.

15 This line item of a million six is a
16 contingency because we don't know exactly what is
17 going to come apart in this building until we've
18 actually taken it apart and see what's inside it.
19 That's why I hesitate to apply the term typical to any
20 of these.

21 COMMISSIONER MITTEN: Okay. I guess I got
22 as much of an answer there as I'm going to.

23 I -- I'd also wanted to ask since I think
24 we're going to get into financial feasibility at some
25 point since Mr. Bolan's here, is how much did you pay

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1 for the properties?

2 MR. MILLSTEIN: I don't know.

3 COMMISSIONER MITTEN: That's a question
4 I'd like to have answered because the financial
5 feasibility turns on that to some extent.

6 MR. MILLSTEIN: Okay. I can get -- I can
7 get that.

8 And, Ms. Mitten, if I may, I think
9 focusing on the 1.6 as the -- as the delta is not the
10 right way to look at this.

11 I think focusing on the 270 a foot is the
12 right answer.

13 You could take that million six off. The
14 numbers are still way out of kilter. The million six
15 is a simple contingency that's on any project. Even a
16 new construction project. Although a contingency may
17 be -- it would be smaller in retrospect, but it's a
18 contingency. It's just a larger contingency line item
19 that a lender would typically see on -- on a
20 construction project because of its historic nature.

21 I think the real issue here is the overall
22 cost of the project and the cost per square foot and
23 that's based -- that's all of these line items getting
24 -- getting elevated proportionately by the nature of
25 the structure.

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1 COMMISSIONER MITTEN: I take your point
2 and I'm -- I'm just going to tell you what I'm
3 thinking --

4 MR. MILLSTEIN: Okay.

5 COMMISSIONER MITTEN: -- which is you have
6 -- there's a uniqueness standard for a variance --

7 MR. MILLSTEIN: Right.

8 COMMISSIONER MITTEN: -- test. We have
9 lots of historic properties in this city and they're
10 required to be preserved, restored and they don't all
11 come here and make a financial feasibility argument to
12 get a variance. This is somehow different than that.
13 So, I'm trying to focus on what makes this different.

14 So, if you want to change -- if you want
15 to -- if you want to come up with a different number
16 that says well, that's just -- that's just our
17 contingency number, there's actually other numbers
18 that are built into the rest of the estimate that our
19 -- that do reflect unique circumstances, I'd be
20 interested in knowing what those were. Because that's
21 what -- that's what -- that's what's making you
22 unique.

23 MR. MILLSTEIN: Sure.

24 COMMISSIONER MITTEN: So, I'm just trying
25 to sort that out.

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1 MR. MILLSTEIN: We can do that. We can do
2 that very easily.

3 COMMISSIONER MITTEN: Okay.

4 MR. MILLSTEIN: Just based on past
5 projects that are completed and the cost that they --
6 I know what 7th Street ran a foot. I know what 800 F
7 Street ran a foot. I know what those projects ran a
8 foot. I signed every check. So, I --

9 COMMISSIONER MITTEN: Okay. When you --
10 when you give us those numbers, please focus on -- you
11 know, I mean if you do the -- if you -- if you have a
12 building that you have new construction behind and you
13 stuck a preservation project in the front and then you
14 give us the average over the project, you're not
15 really showing us what the incremental costs for the
16 historic structures was. So, please don't dilute the
17 number --

18 MR. MILLSTEIN: Okay.

19 COMMISSIONER MITTEN: -- when you give it
20 to us. Do you follow me?

21 MR. MILLSTEIN: Well -- yes, but I -- I
22 thought what you were most interested in are the
23 overall costs of the project because they're
24 intertwined, both the new construction and the
25 historic. So, it's the cost to develop the project

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1 and the mix of historic and new is just the nature of
2 the beast.

3 COMMISSIONER MITTEN: Okay. Okay.

4 MR. MILLSTEIN: So, I'll price similar
5 things.

6 COMMISSIONER MITTEN: Okay.

7 CHAIRPERSON GRIFFIS: Any other questions?

8 MR. GLASGOW: All right. I'd like to call
9 the next witness Ms. Emily Eig.

10 Would you please identify yourself for the
11 record and proceed with your testimony?

12 MS. EIG: My name is Emily Hotaling Eig
13 and I'm an architectural historian and preservation
14 consultant with the HT Traceries.

15 My testimony seeks to direct your
16 attention to the history of the building both past and
17 present and their contribution to the Shaw Historic
18 District and I think perhaps that will help answer Ms.
19 Mitten's question about their uniqueness.

20 The five buildings are located on the
21 southwest corner of Square 399 and there is a map up
22 here. I will get up and point this out.

23 CHAIRPERSON GRIFFIS: Yes, actually what
24 we can do is -- why don't we move those closer so that
25 they're next to the table and then actually we can see

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1 them.

2 MS. EIG: Perhaps, Melissa, you could
3 point out the site for me and be my Vanna White.

4 MS. COHEN: This is the N Street here.
5 Convention --

6 CHAIRPERSON GRIFFIS: Actually, I'm going
7 to need to have you on a microphone is you say
8 anything. You can pick that one up and carry it over
9 I believe.

10 MS. COHEN: North -- north is running this
11 way. I'm sorry for the confusion.

12 CHAIRPERSON GRIFFIS: Indeed.

13 MS. COHEN: But, this is 9th Street. This
14 is N Street. Our project's right here on the
15 northeast corner. Convention Center is right here.
16 There is a -- a public alley right behind our site, a
17 vacant lot and then 8th Street.

18 MS. EIG: The five buildings that form
19 these -- this group were built at different times.
20 The -- actually the square was subdivided in the 1850s
21 as you'll find most of the -- the property that is
22 north of Massachusetts Avenue and as we get into the
23 Shaw and Mt. Vernon Historic Districts.

24 And the -- there were buildings built on
25 the five lots in the 1860s. Of these, some of these

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1 remain and the corner -- the large corner building was
2 replaced in 1891 with this large orange brick building
3 that is at the corner.

4 The smaller buildings were built either
5 individually. There is one pair say they are from the
6 1860s. They were built during the Civil War actually,
7 1860 to 1866, a little bit after.

8 CHAIRPERSON GRIFFIS: Now, your report
9 says that corner building that you're talking and
10 you've described it -- I guess it's your description.
11 There's probably documents.

12 MS. EIG: Yes. Yes, that's --

13 CHAIRPERSON GRIFFIS: Italianate which is
14 -- we'll call it Italianate Light perhaps.

15 MS. EIG: Exactly.

16 CHAIRPERSON GRIFFIS: But, that was built
17 for a single family. Correct?

18 MS. EIG: With a --

19 CHAIRPERSON GRIFFIS: With retail on the
20 first floor.

21 MS. EIG: -- with a store on the first
22 floor.

23 CHAIRPERSON GRIFFIS: Right. Fascinating
24 stuff.

25 MS. EIG: Yes. Yes.

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1 CHAIRPERSON GRIFFIS: So, it was a mixed-
2 use building.

3 MS. EIG: Right. And by the 1890s,
4 downtown there were actually many buildings that were
5 built to the south this that were the same thing --

6 CHAIRPERSON GRIFFIS: Indeed.

7 MS. EIG: -- of the -- of store at the
8 first floor with a large and gracious house above.

9 CHAIRPERSON GRIFFIS: Right.

10 MS. EIG: Which is not your typical idea
11 of a little residence upstairs, but --

12 CHAIRPERSON GRIFFIS: Right.

13 MS. EIG: -- more grand.

14 CHAIRPERSON GRIFFIS: Kind of a great
15 urban concept.

16 MS. EIG: Yes, the -- actually, Douglas
17 Development's offices are at 7th and H which is
18 Fuddruckers. You may know downtown and that was the
19 Herman family owned. I mean my office was in there in
20 the 19 -- 1989 through '91 and it was a three-story.
21 You know, it was a very, very large grand house that
22 had been converted over the years, but they ran their
23 furniture store from the first floor. It was actually
24 a clothing store from the first floor.

25 So, that is an interesting fact that also

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1 shows the change in that neighborhood. Because the
2 other buildings which were from the 1860s are more
3 modest. They are all wood frame with masonry walls
4 and they're -- they're wood frame structures. Floor
5 systems are all together and the condition of them is
6 extremely poor.

7 As Mr. Millstein testified, it was in the
8 summer of 2002 that the -- there were these rains that
9 had caused damage and they were very damaging to this
10 site. Particularly the rear of these abandoned
11 buildings were failing terribly. We brought Steve
12 Callcott out to the site. We had -- Clark Ray was
13 there. The -- every effort was being made to maintain
14 these buildings and not to raze them.

15 The -- certainly Steve Callcott in the
16 Preservation Office did not want them to be
17 demolished, but they were in extremely poor condition
18 and they allowed us to removed some of the completely
19 deteriorated rear sections of the building which is
20 why they are open as they are -- they've been
21 stabilized, but you can see that they've -- parts of
22 them have been removed and that was in order to
23 stabilize the buildings and keep the rest intact.

24 The condition of these is the product of
25 the deteriorated state of the neighborhood that is in

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1 that area which is improving we hope with the
2 convention center and there are many buildings that
3 don't come here. For one reason, they're not in C2A
4 zones. They are in residential zones and people might
5 come in and choose to do less excessive structure that
6 is necessary for commercial purposes to meet the C2A
7 zoning.

8 The situation of these buildings is that
9 because they are sided right next to the Convention
10 Center they're -- and they are between a gas station
11 and the Convention Center. There's an Amoco station I
12 believe to the north.

13 Also, that they are on a corner. The 1891
14 building has essentially two faces, two facades for
15 public exposure and there were two small apartment
16 flat buildings that are -- were in the rear yard that
17 are -- that were torn down sometime between 1964 and
18 1980. I'm sorry. I don't have the exact date when
19 they were razed, but they show up on the maps as
20 flats. They were very small buildings that
21 essentially sat in the rear yard of that corner 1301.

22 The efforts that have been made to
23 stabilize these buildings until a plan for action
24 could take place has required effort on the part of
25 Douglas Development to just keep them there. They --

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1 the buildings are in an area that still suffers from
2 untoward behavior. Certainly things are improving,
3 but it is -- these buildings -- any building that is
4 abandoned or not being used on a regular basis is
5 certainly susceptible to that kind of activity and
6 they are -- because of their corner location, their
7 location across from the Convention Center, I think
8 there are a lot of people watching this and hoping
9 that there will be a very good project here.

10 The Convention Center is now open. I
11 think many of us are very happy with how it's turned
12 out and didn't quite expect it to be as favorably end
13 result as we have achieved there and with the City
14 Museum there, it's a very big focus and very exciting.

15 My office is at 5th and New York. So, I
16 am right down there everyday.

17 And the -- this -- if you haven't been
18 down there, you may have been to the front of the
19 Convention Center, but if you've been to the side, all
20 you will see is vacant buildings surrounding it.
21 There is very little use here and there there is some
22 use especially along 7th Street. There a few of the
23 buildings have some occupants, but they are either for
24 lease or no one's paying attention to them and we'll
25 all waiting for that great boom of activity that the

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1 press tells us is going to happen around the
2 Convention Center and I cannot get a cup of coffee
3 around my office. Let's be honest.

4 CHAIRPERSON GRIFFIS: Right.

5 MS. EIG: The need for there to be a
6 project that would actually take on these very
7 expensive buildings and to improve them will be I
8 think well received by everyone in the -- that
9 neighborhood and the Advisory Neighborhood Commission,
10 the Shaw Historic District and the effort is -- that
11 is being presented here is one to obviously to
12 compliment the historic character of the buildings.

13 The visits to the Review Board originally
14 requested a much larger new structure, new
15 construction. The Review Board was adamant that any
16 new construction be pushed to the off -- I should say
17 off the historic buildings because of the corner
18 location. They -- the typical building in the back
19 and coming forward was not approved by them because
20 they felt it was too visible because of the two
21 exposures from both N and 9th Street. The -- as well
22 as the public alley that is behind them, actually
23 parallel to 9th Street, makes it visible from the rear
24 as well because right now there is a vacant lot and an
25 alley between the church that is on 8th Street and the

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1 building on 9th.

2 CHAIRPERSON GRIFFIS: Seems to be a
3 temporary condition or --

4 MS. EIG: One would hope so.

5 CHAIRPERSON GRIFFIS: -- not?

6 MS. EIG: One would hope so. Yes.

7 CHAIRPERSON GRIFFIS: Okay.

8 MS. EIG: The restoration of the facades,
9 their stabilization, the repairs due to the partial
10 collapse at the rear, and the salvage of the fabric so
11 that it can be restored while in some cases are
12 representative of what one faces when dealing with
13 historic buildings, in this case everyone of them is
14 necessary and they're all to the extreme because of
15 the level of neglect prior to the purchase by Douglas
16 Development.

17 The Review Board wanted both elevations to
18 be articulated in the manner that the corner building
19 had been in that they would both be visible because
20 the -- actually the N Street which is the side of that
21 group of buildings is what faces the Convention Center
22 and they were very interested in that appearing
23 appropriate to the new Convention Center site.

24 The connections between the new and old
25 can and must be as -- with as little damage to the

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1 fabric of the interior of the buildings. The floors
2 are at different heights. There are different
3 deterioration stages and you will see when the
4 architect speaks, you know, how she's tried to
5 minimize the impact of the floor changes.

6 The existing floor -- the window
7 configurations also are all different because these
8 were built with the exception of one pair at different
9 -- you know, by different owners with no concern for
10 their neighbor per se and clearly to meet modern --
11 modern building codes that are in place -- that have
12 to be imposed on this including -- because of the C2A.

13 I assume in the uses that would be here for retail,
14 mechanical, trash rooms, and things.

15 And the -- using a building in mixed use,
16 we see downtown, but we don't see residential. We see
17 -- might see office and retail. We haven't see much
18 retail in residential except in new buildings. It
19 comes every once in a while, but it's -- coming up
20 here, historically, this is what had been here. But,
21 we're not seeing it new that much and it's starting to
22 come again and it's very exciting that people are, you
23 know, happy to live in mixed use buildings again.

24 So, I see this as a prominent site that is
25 critical to the area's rehabilitation simply because

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1 there has not been the kinds of projects we hoping for
2 and we hope that this will be a stimulus to it.

3 It's -- the -- the location across from
4 the Convention Center to me makes this building to
5 some degree a -- a small but still a symbol of D.C.'s
6 potential for the future. Because when people come to
7 the Convention Center and they look around, I would
8 certainly think that one would hope D.C. can do better
9 around the Convention Center and this is an
10 opportunity to show that the Shaw Historic District
11 and Mt. Vernon Historic District both which front onto
12 the Convention Center site --

13 CHAIRPERSON GRIFFIS: Right.

14 MS. EIG: -- in fact can be rehabilitated
15 and brought back to represent D.C. as a place that
16 cares about it's neighborhood --

17 CHAIRPERSON GRIFFIS: Okay.

18 MS. EIG: -- and in fact will be a good
19 future.

20 CHAIRPERSON GRIFFIS: I don't think you'd
21 have any disagreement from this Board that they'd like
22 to see good things happen around the Convention Center
23 and all the neighborhoods in bringing back retail and
24 so, I'll take that and your strong enthusiasm for this
25 being a catalyst as going to the -- the test of which

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1 we look at that this would not go against the -- the
2 public good --

3 MS. EIG: Right.

4 CHAIRPERSON GRIFFIS: -- and we'll leave
5 it at that.

6 Anything else for summary in terms of
7 uniqueness or practical difficulty, the historic -- or
8 how --

9 MS. EIG: I just -- I just say I do as I
10 think you are aware many, many projects. This is a
11 very small project to deal with as Mr. Millstein
12 stated and has been -- the amount of new construction
13 has been limited to so little that it's at a
14 borderline as to whether it could happen. I think
15 that the rear yard relief is part of that -- that
16 issue and the realities of financial -- the cost of
17 these buildings are quite real or otherwise buildings
18 would be done everyday and we'd have a beautiful city
19 if it didn't cost as much as it does.

20 So, that to the -- you know, provide for
21 the Historic Preservation Review Board's requirements
22 on this site which are in a -- their newer, more
23 stringent desire to move new construction off
24 completely from historic buildings and this was not
25 the case two years ago. It is the case now. They've

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1 made it a policy. They want to see new construction
2 completely off the new -- I mean off the historic
3 buildings. When it's in the rear, begins a cycle --
4 is very difficult to deal with and may make some
5 projects not possible to proceed when they might have
6 been possible in the past.

7 So, with that in mind, I think that the
8 practical difficulties of trying to deal with the fact
9 that they were able to make the Review Board and that
10 this went to the consent calendar in the end was very
11 positive, but we hope we can actually construct it.

12 CHAIRPERSON GRIFFIS: Okay. Is that part
13 of our tests going through HPRB as a practical
14 difficulty? Okay.

15 MS. EIG: Mr. Chairman, I'd like to say
16 you stated that not me. Thank you.

17 CHAIRPERSON GRIFFIS: That's why I get
18 into so much trouble. All right. What else?

19 Are we going to walk through
20 architectural?

21 MR. GLASGOW: Yes.

22 CHAIRPERSON GRIFFIS: Okay.

23 MR. GLASGOW: That is now.

24 CHAIRPERSON GRIFFIS: Let's do that and we
25 can -- we're going to pick up the pace a little bit

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1 here, but let's get through the -- the plans.

2 Also, I -- what I'd like you to do is as
3 you walk through the residential units how they're
4 laid out and how the, one, the layout and the square
5 footage relates to what it takes to make a residential
6 unit. Meaning does the size, shape, and location go
7 to the expansion of the FAR in this building and I
8 think you can get through that fairly quickly, but I
9 will add that into what you're about to tell us.

10 So, please proceed.

11 MS. COHEN: Okay. Briefly, we talked
12 about this being an expensive project for its size and
13 scope. We're proposing to do a full restoration
14 project. Existing two and three story buildings are
15 significant, but they're -- they're -- as we talked
16 about, need a lot of work. We're stabilizing them.
17 We're unpinning them. We're restoring the existing
18 facades and we're pairing -- restoring the existing
19 facades is quite a bit of work which I'm going to walk
20 through, but it's not only repairing missing and
21 damaged materials in kind, but there are going to be
22 new store fronts designed and based on historical
23 documentation and it'll take quite an effort.

24 CHAIRPERSON GRIFFIS: So, could you say
25 actually part of the uniqueness what Ms. Eig has also

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1 brought up is -- is bringing back the original use of
2 these things.

3 MS. COHEN: Yes.

4 CHAIRPERSON GRIFFIS: I mean that's
5 something unique of --

6 MS. COHEN: Yes.

7 CHAIRPERSON GRIFFIS: -- of these
8 particular properties in terms of their retail.

9 MS. COHEN: Yes, that's correct.

10 CHAIRPERSON GRIFFIS: Okay.

11 MS. COHEN: Thank you.

12 CHAIRPERSON GRIFFIS: I think -- and I
13 don't think we need to go into --

14 MS. COHEN: That's fine.

15 CHAIRPERSON GRIFFIS: -- extensive detail.

16 Although clearly this Board would love to have design
17 review on everything. We don't and -- except in
18 particular cases. So, we're not that concerned with
19 -- or we're not able to be concerned with, you know,
20 the specifics. Clearly, you stated -- I mean the --
21 the facades need to be repaired and whatever that
22 takes to fenestrate the windows. Obviously, there's a
23 lot of detailing of wood and possibly metal -- metal
24 cornices and bandings. I think that's pretty clear.

25 MS. COHEN: Okay. Let's see. Basically,

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1 we've been working with the -- we've been working with
2 the community, working with the Historic Preservation
3 Review Board and trying to -- and the client and
4 trying to make all these difficult I guess motivations
5 come together.

6 One of the things that Historic
7 Preservation Review Board wanted us to do was keep off
8 the existing structure and so let me just start here.

9 Basically, this is the existing structure right here.

10 CHAIRPERSON GRIFFIS: All right.
11 Actually, I'm going to have the Board look at -- you
12 did some diagrams.

13 MS. COHEN: Yes.

14 CHAIRPERSON GRIFFIS: Actually some three
15 dimensional diagrams that show the setback. You're
16 about to show a setback. As the record states are
17 anywhere from 34 to 65 feet which seems to be
18 extensive but go ahead. I think we understand it.
19 So.

20 MS. COHEN: Okay. Okay. So, basically,
21 that's the footprint.

22 CHAIRPERSON GRIFFIS: So, the massing is
23 moved to the back. I mean that's pretty clear.

24 MS. COHEN: All is the back and the rear.

25 CHAIRPERSON GRIFFIS: Right.

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1 MS. COHEN: And that's to have minimal
2 impact -- visible impact on N Street and 9th Street.

3 These are some of the elevations. This is
4 restoring the -- the existing structures over here and
5 then our new buildings would be more modern and
6 setback.

7 CHAIRPERSON GRIFFIS: What's the facade
8 material on the addition?

9 MS. COHEN: On the addition? Well, on the
10 addition, it would be brick. It would be matching the
11 same materials.

12 CHAIRPERSON GRIFFIS: Right. On the
13 street front.

14 MS. COHEN: On the street front. So, we'd
15 match the same scale materials, proportions, et cetera
16 and keep that -- that solid street front -- street-
17 scape going and then the back would be more modern and
18 we're still working out the materials, but probably
19 some kind of ceramic panel or something. Flat panel.
20 Okay.

21 CHAIRPERSON GRIFFIS: Should we pick the
22 material right now while we have a moment?

23 MS. COHEN: Basically, I'll walk through
24 the floor plans really quickly.

25 Basement, we are staying off the historic

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1 structures altogether. So, the basement, all the new
2 work is right back in here and all of the services
3 occur there. The -- the egress is the elevator. The
4 machine rooms, mechanical, electrical, all of that
5 stuff will happen in the new -- new part of the
6 building.

7 The first floor -- the first floor, the
8 intent also all of the services stay at the rear of
9 the building and retail the first floor in the -- in
10 the front. This will be the lobby to take you up to
11 the office floors and to the residential units.

12 Third floor, we just -- I skipped a floor.
13 The second floor we talked about as being office
14 space. Basically, the same footprint all the way up
15 and all the services are in the rear of the building.

16 The third floor is the one that we just
17 revised based on the report and it's a little hard to
18 see here, but the third floor, basically apartments
19 are laid out. So, the apartments are in this part.
20 There's one here, one here, one here, and a small one
21 over here. So, this is 872 square feet of building --
22 of a -- of apartment, 1150, 475, and 600 roughly.

23 The -- the -- one of the difficulties in
24 this project is this right here is we're on the
25 property. This is a property line over here. This is

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1 our street-scape obviously. So, 9th and N Street, we
2 have plenty of windows. That's fine. But, the
3 problem comes along this wall when you can't have any
4 windows along the property line because someone might
5 build a -- a unit right there or build anything up
6 there.

7 Along the alley wall, we'll have to make
8 some concessions about how to deal with the fire
9 rating, but the same. We'll have -- we'll be able to
10 have some windows there with -- as long as it's
11 protected.

12 So, the apartments basically only exposed
13 on three sides. So, I'm kind of working around it.

14 CHAIRPERSON GRIFFIS: I don't understand
15 the plan -- the revised third floor. Show me 9th
16 Street. 9th Street's on the bottom, correct, of the
17 drawing.

18 MS. COHEN: Yes. Yes.

19 CHAIRPERSON GRIFFIS: Okay. That's fine
20 and your units stop -- doesn't the existing structure
21 go up to the third floor?

22 MS. COHEN: I'm sorry.

23 CHAIRPERSON GRIFFIS: Does the existing
24 structure go up to the third level?

25 MS. COHEN: It does. The third -- third

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1 level -- this building is only two stories.

2 CHAIRPERSON GRIFFIS: Right.

3 MS. COHEN: This building three. These
4 are three.

5 CHAIRPERSON GRIFFIS: But, your unit seems
6 to stop much further back.

7 MS. COHEN: Our unit's all the back. So,
8 the new -- the new part is -- is back in here.

9 CHAIRPERSON GRIFFIS: But, on the third
10 floor what you're looking at in the plan, it goes all
11 the way to the edge.

12 MS. COHEN: Coming up.

13 CHAIRPERSON GRIFFIS: Oh, okay. That
14 makes more sense to me now. All right.

15 What I was looking at in the drawing that
16 you're showing, it's -- it appears to me -- I may not
17 be looking at this right, but there -- there's
18 portions that are possibly shaded a little bit and it
19 looked like the units were stopping before they
20 reached 9th Street which is part of the existing
21 structure. So, I just wanted to know what was
22 happening in between that.

23 So, that's -- yes.

24 MS. COHEN: Yes.

25 CHAIRPERSON GRIFFIS: So, you've shaded

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1 the residential.

2 MS. COHEN: Actually, it doesn't. The --
3 the shading is just what's -- what's new.

4 CHAIRPERSON GRIFFIS: No, I'm -- what
5 you've just drawn on the drawing is what --

6 MS. COHEN: Right. Right. What I just
7 showed is --

8 CHAIRPERSON GRIFFIS: Right. Right.
9 Right.

10 MS. COHEN: -- is --

11 CHAIRPERSON GRIFFIS: Got ya.

12 MS. COHEN: I know. If you look here --

13 CHAIRPERSON GRIFFIS: Now, we're clear.

14 MS. COHEN: -- the existing building.

15 CHAIRPERSON GRIFFIS: Right.

16 MS. COHEN: Three stories, two, three,
17 three.

18 CHAIRPERSON GRIFFIS: Right.

19 MS. COHEN: So, we're -- and then stepping
20 -- and then we're stepping back 30 to 60 feet back for
21 the new -- new parts of the building.

22 COMMISSIONER MITTEN: Could you hold that
23 up to your mouth more?

24 MS. COHEN: Okay. Fourth floor --

25 CHAIRPERSON GRIFFIS: Is she reading off

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1 that mike? Okay.

2 MS. COHEN: Okay. Fourth floor
3 departments are laid out. Here we have six
4 apartments. Five of them will be two stories.

5 CHAIRPERSON GRIFFIS: Okay.

6 MS. COHEN: This one's a single story and
7 that's because on N Street we wanted to keep the
8 scale.

9 CHAIRPERSON GRIFFIS: Right.

10 MS. COHEN: And try to keep the building
11 as -- as low as possible. So, these are two story
12 units that take us up to the --

13 CHAIRPERSON GRIFFIS: Okay. And the --
14 the -- roughly the square footages of the units for
15 the -- the two levels?

16 MS. COHEN: The two levels are 1300.

17 CHAIRPERSON GRIFFIS: Okay.

18 MS. COHEN: 1300, 820, 800, 960, 800.

19 CHAIRPERSON GRIFFIS: Okay. And there's a
20 diversity of -- of unit types. Is that correct or
21 not? All they all five bedroom.

22 MS. COHEN: There -- there -- there five
23 duplexes and they're one to two bedrooms depending
24 on --

25 CHAIRPERSON GRIFFIS: One to two, but

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1 that's -- that's -- right. So, that's the --

2 MS. COHEN: The maximum.

3 CHAIRPERSON GRIFFIS: Okay.

4 MS. COHEN: It would be difficult to get
5 two in there, but -- on the fifth floor, we have the
6 upper floors of the duplex units and also our
7 recreation space. It would be the roof terrace. It
8 would be facing the Convention Center on N Street.
9 Take advantage of that spot.

10 Because of the -- we're pretty much trying
11 to fill in the whole lot. There's no other place for
12 -- for recreational space except on this roof terrace.

13 CHAIRPERSON GRIFFIS: Okay.

14 MS. COHEN: And that's where we are.

15 CHAIRPERSON GRIFFIS: Now, there's been
16 some discussion or substantial evidence shown that --
17 that the floors are being replaced in the -- of this
18 building. Are the interior walls also being
19 maintained?

20 MS. COHEN: The interior walls are -- the
21 masonry bearing walls will be maintained as best they
22 can. If they're there, they will be maintained, but
23 the interior -- interior walls that are just wood will
24 not be maintained. There is not a whole lot of
25 interior partitions.

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1 CHAIRPERSON GRIFFIS: So, on the first
2 floor, would -- the anticipation is potentially to get
3 several different retailers in there?

4 MS. COHEN: Possibly.

5 CHAIRPERSON GRIFFIS: Okay.

6 MS. COHEN: Up to whatever they can.

7 CHAIRPERSON GRIFFIS: I mean with the
8 openings and the demolition of --

9 MS. COHEN: Yes.

10 CHAIRPERSON GRIFFIS: -- the existing
11 interior --

12 MS. COHEN: It would --

13 CHAIRPERSON GRIFFIS: -- the -- the
14 potential is you could have a single tenant.

15 MS. COHEN: Exactly. You could have a
16 single tenant --

17 CHAIRPERSON GRIFFIS: Okay.

18 MS. COHEN: -- as well.

19 CHAIRPERSON GRIFFIS: Interesting. All
20 right.

21 MS. COHEN: We talked about -- we also
22 looked at the 15 rear -- the 15 foot --

23 CHAIRPERSON GRIFFIS: Is there any
24 availability -- I'm sorry to interrupt you, but we're
25 going to get through this fairly quickly. Is there --

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1 was there discussion about making a roof terrace off
2 of 9th Street? Bringing a nice guardrail up to the
3 edge of those building and actually terracing the rest
4 of that space?

5 MS. COHEN: We didn't look at that because
6 the Historic Preservation Review Board was trying to
7 keep us off of the -- off of 9th Street.

8 CHAIRPERSON GRIFFIS: So, it's your
9 anticipation that HPRB would not have allowed you to
10 do that?

11 MS. COHEN: That was -- that was my
12 understanding, but --

13 CHAIRPERSON GRIFFIS: Yes.

14 MS. COHEN: -- that would be --

15 CHAIRPERSON GRIFFIS: It's a nice place
16 for a roof deck. Don't you think?

17 MS. COHEN: It would be nice.

18 CHAIRPERSON GRIFFIS: Okay.

19 MS. COHEN: The last thing was about the
20 15-foot rear yard setback, the variance and -- and we
21 talked about that and basically, all of our services
22 are in the back -- back corner.

23 Part of the reason for that is -- is
24 because of the different floor heights we already
25 talked about and also we're trying to align the floors

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1 with this corner building 1301 since that's the most
2 structurally sound building, but it also is kind of
3 the average height -- floor heights. So, we aligned
4 the floors with -- we aligned the new construction
5 with a -- with 1301 --

6 CHAIRPERSON GRIFFIS: I see.

7 MS. COHEN: -- 9th Street.

8 CHAIRPERSON GRIFFIS: Because it kind of
9 splits the difference between the different floor
10 levels. What's the difficulty in having an elevator
11 stop at different floor levels in between floors?

12 MS. COHEN: Well, it would be -- it would
13 be very difficult because the -- the difference in
14 floor height is about two feet.

15 CHAIRPERSON GRIFFIS: I see.

16 MS. COHEN: So, I'm not quite sure how you
17 would do it.

18 These -- this building here -- this
19 building and these two buildings are actually very,
20 very close in floor elevation heights within four or
21 eight inches. So, we were able to ramp and -- and
22 accommodate the differences there.

23 These two buildings here are quite a bit
24 significantly different and they're about 30 inches.
25 So, it would be difficult to unless -- if you core in

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1 the center, you'd basically have to have two different
2 stops.

3 CHAIRPERSON GRIFFIS: Right.

4 MS. COHEN: Like front and back and I mean
5 it's possible, but it would be --

6 CHAIRPERSON GRIFFIS: So, it would
7 actually take different doors on the elevator.

8 MS. COHEN: Right. Right.

9 CHAIRPERSON GRIFFIS: So, you would
10 actually have four doors on the elevator.

11 MS. COHEN: It would -- it would be a
12 little confusing.

13 CHAIRPERSON GRIFFIS: And interesting.
14 Okay. That's what they have in the Spy Museum. Don't
15 they? They have like these secret doors or -- all
16 right. Let's -- any questions for the architect?
17 Does everyone understand the design? Understand the
18 problems? Okay.

19 Thank you very much. We appreciate it.

20 MR. GLASGOW: In response to an earlier
21 question today, I wanted to -- to make sure that we
22 had some clarification on Mr. Robinson's testimony and
23 I think he is -- he is going back through the numbers
24 so that we can just get a number that is the -- the
25 premium associated with respect to this project.

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1 If he could come up. Mr. Robinson.

2 CHAIRPERSON GRIFFIS: Okay.

3 MR. GLASGOW: Would you please address the
4 -- the premium associated with this particular project
5 with respect to the historic preservation costs?

6 MR. ROBINSON: I think the original
7 question came from Ms. Mitten as to about how the
8 premium for this project versus other projects and we
9 have come up with about a \$2.8 million premium over
10 the existing structures to repair and renovate them
11 and get them into a stable condition to be able to
12 start the work.

13 COMMISSIONER MITTEN: Okay. I'm just
14 going to ask again just to be sure I understand and
15 that's -- that cost is what is atypical for this
16 historic project or that is all of the -- the costs
17 related to the historic preservation?

18 MR. ROBINSON: That -- that is atypical
19 for the cost of this project.

20 COMMISSIONER MITTEN: Okay. Thanks.

21 MR. GLASGOW: Thank you. I would like not
22 to proceed with the next witness, Mr. Bolan.

23 MR. BOLAN: Good morning, Mr. Chairman,
24 members of the Board.

25 For the record, my name is Lewis Bolan

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1 with the firm of Bolan Smart Associates. We're real
2 estate and economic consultants to this project.

3 You've heard the difficulties
4 architecturally and from a construction standpoint and
5 what I'd like to do now is to -- to look at some of
6 the numbers and the -- the economic ramifications of
7 some of the things that you've heard earlier and what
8 I'd like to do is to briefly walk you through three
9 scenarios for this project.

10 One is what I'm calling the "Buy Right"
11 development. What if this project were to -- to
12 proceed without any variance on that? Secondly, what
13 the original request was for variance and -- and the
14 third, what I would call the compromise variance. It
15 has to do with the third floor being used for a half
16 office and half residential.

17 And there are a lot --

18 COMMISSIONER MITTEN: Before you start, do
19 you have something that we could follow along with?

20 MR. BOLAN: Dennis, do you have extra
21 copies of that?

22 What I'd -- what I'd like to -- let me
23 wait until you -- until these have been distributed so
24 that you have copies in front of you.

25 Okay. Okay.

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1 CHAIRPERSON GRIFFIS: Okay. So, you're
2 going through "Buy Right."

3 MR. BOLAN: Okay.

4 CHAIRPERSON GRIFFIS: The first option and
5 then the revised.

6 MR. BOLAN: All right. Starting in "Buy
7 Right", what we -- what we've done is we have first
8 estimated the total cost of this project and those
9 costs as you can see on that table are \$8,031,520.

10 In -- in doing this, you'll -- you'll note
11 that we've used the assess valuation for the land and
12 improvement which is \$629,200 as an input into that
13 and in response to -- to an earlier question that you
14 had, Ms. Mitten, you asked what -- what did the
15 Applicant pay for this property and it was acquired on
16 August 11th, 2000 and the total acquisition cost was
17 \$2,900,000.

18 But, we have chosen not to use that number
19 in -- in our -- in any of our analyses. Instead
20 relying on the assess valuation. Feeling that that
21 was the more appropriate and more conservative way of
22 proceeding with this project not what the Applicant
23 paid for the property and so, the \$629,200 represents
24 the current appraised -- current assess valuation of
25 the properties in question.

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1 We then said the rehabilitation costs for
2 20,115 gross square feet of space, and you'll note
3 that we've used a higher cost there, we've used a cost
4 of \$320 per square foot not the \$271 that was
5 referenced by Mr. Robinson earlier and that number
6 again was supplied by -- by Davis Construction.

7 But, presumably if they were not to expand
8 the building but were to do a smaller building, there
9 would be an additional premium over and above what
10 they had come up with and that's how that \$320 number
11 was arrived at.

12 And then finally, we've used lease up and
13 soft costs at 15 percent and I -- I would note that
14 that's a very conservative number. That in reality
15 lease up soft costs -- and soft costs would include
16 such things as interim financing fees, permits,
17 architects, legal expenses, interior fit out,
18 brokerage commissions, advertising, marketing, and
19 general overhead is normally -- it's the principal
20 categories that are included in those soft costs.

21 And we've -- I think we've been extremely
22 conservative in using the 15 percent number there.
23 The number that is -- is often used is between 20 and
24 25 percent. The reason we've chosen to use a low
25 number here is because the architect's fees are

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1 included in the construction costs number one and
2 number two because construction interest rates right
3 now and permanent rates are all time low records. We
4 felt that it was warranted to use a low figure.

5 So, we've come up with a -- with a total
6 cost of \$8,031,520 if this project were developed "Buy
7 Right."

8 We then looked briefly at the potential
9 income from this and looked at the cash-on-cash return
10 and at the capitalized value of the property using two
11 rates, a 7 percent cap rate and an 8 percent cap rate
12 and I think rather than walk you through this line by
13 line, I think in the interest of time, I'd like to
14 just go to the bottom line there and say that the
15 cash-on-cash return that -- that we've calculated is
16 4.2 percent which is hardly sufficient to justify any
17 project of this size, this magnitude or this risk
18 level and I'm -- I personally am not aware of any
19 developer who would initiate a project of such
20 complexity if the expected return was a 4.2 percent
21 cash-on-cash return.

22 And furthermore, when we capitalize this
23 using relatively low capitalization rates of 7 or 8
24 percent, both suggest a -- a loss on this property.
25 In other words, the total cost is over \$8,000,000 to

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1 develop it, but if the developer upon the completion
2 of this project and successful leasing of it were to
3 turn around and sell it, we would estimate that their
4 loss would be between 3.2 and 3.8 million dollars.
5 So, clearly, there is no basis for -- for proceeding
6 from an economic standpoint on a "Buy Right" basis.

7 On the -- the second -- the second page
8 which is labeled BSA 2 table 2, we -- we've looked at
9 the redevelopment of this as proposed by -- by Ms.
10 Cohen in her -- in her architectural plans that were
11 just presented to you and there we have a -- a
12 building of 36,291 gross square feet and once again,
13 we've used the same format and the same -- the same
14 level of analysis.

15 In this case, you'll note that we've used
16 the lower construction cost, the \$271.25 that was
17 referenced earlier by Mr. Robinson. The same 15
18 percent lease up costs and we come to a total cost for
19 this project of just under \$12,000,000 for the -- for
20 the development of it.

21 Looking at the income potential, you'll
22 note that we've -- we've assumed a higher rental rate
23 for the retail space and for the office space than was
24 the case in the earlier and we felt that the economies
25 of scale, the critical mass that would be generated by

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1 now doing a larger project would warrant a higher rent
2 and I might add that where -- where those are
3 relatively high rent levels certainly for that area,
4 but we're optimist that a specialized kind of user
5 could be found who would -- who would pay that price.

6 On -- on the retail \$35 triple net is a
7 relatively high price for that area today, but because
8 it is directly across the street from the -- the
9 Convention Center, we really do feel that -- that that
10 is warranted and that a restaurant or a couple of
11 restaurants of a very high quality could be interested
12 in that. Something similar to what Douglas has done
13 with the -- the District Chop House, for example,
14 would be a good example of the kind of use that we
15 think would be warranted and marketable in that area.

16 And likewise while this is not
17 conventional office space, you heard Mr. Millstein
18 call it funky space. I don't know if I'd use the word
19 funky, but -- but we think it specialized office
20 space. But, we think it could have some very
21 substantial appeal to people who do business with the
22 convention center. It is not the kind of space that's
23 going to appeal to a law firm or to a trade
24 association or something of that sort. But, we do
25 feel that there are specialized users who we think

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1 would be very interested in that.

2 But, continuing there, it would generate
3 in -- in our estimation a net operating income of
4 \$846,000 upon completion which is a cash-on-cash
5 return of 7.1 percent. So, you could see that that's
6 a better yield than the earlier case, but it is still
7 far from an attractive yield and certainly most of the
8 cash-on-cash returns that we look at for the kinds of
9 projects that we're typically involved with show
10 double digit cash-on-cash returns. Is what is
11 typically being asked for.

12 And once again, we've capitalized that
13 income stream using both a 7 and an 8 percent cap and
14 here the -- the range depending upon which
15 capitalization rate you use ranges from a loss of
16 \$144,000 to a profit of a \$1,367,000.

17 So, here we -- we do feel at least there's
18 a fighting chance that this project could be -- could
19 be done and could be done successfully and if that
20 lower cap rate were utilized which is not out of line,
21 I think that there is at least some potential here for
22 the developer to -- to have a -- you know, a pretty
23 good profit on the -- on the property.

24 And the -- the last page in this -- in
25 this attachment simply summarizes the materials that

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1 were -- have just been -- have just been provided.
2 There's nothing -- nothing new there.

3 Turning to the -- the second of the
4 handouts, the -- the Alternative D, here we've --
5 we've changed the -- the mix of uses to reflect what
6 Mr. Glasgow talked about a little earlier of a -- sort
7 of a compromise of using the third floor for half
8 residential purposes and half office purposes and once
9 again, we've gone through the same -- the same --
10 here. Showing --

11 CHAIRPERSON GRIFFIS: Let me make sure we
12 have all of this.

13 I have Table 1 which is the "Buy Right."
14 Table 2 which is redevelopment as proposes.

15 MR. BOLAN: Right. Yes. That's right.
16 And Table 3 which is just a summary is the third
17 table.

18 CHAIRPERSON GRIFFIS: Right.

19 MR. BOLAN: Then you should also have a
20 second handout called Alternative D.

21 CHAIRPERSON GRIFFIS: That I don't have.
22 Here they come.

23 MR. BOLAN: Okay.

24 CHAIRPERSON GRIFFIS: So, to be clear, as
25 proposed is what we've just look. Is the mix on the

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1 third floor of residential and commercial.

2 MR. BOLAN: No, that is -- that is all --

3 CHAIRPERSON GRIFFIS: That's the original.

4 MR. BOLAN: That is the original
5 submission that has the third floor all office.

6 CHAIRPERSON GRIFFIS: Got ya. Okay.

7 MR. BOLAN: Now, what we've done is we've
8 looked at -- at the -- you know, what I'd call the
9 compromise position which is having the third floor
10 develop for half residential and half commercial and
11 once again, it's the same format that we've used. The
12 same kind of analysis and we show total development
13 cost for the project of just under \$12,000,000 --
14 \$11,949,000.

15 We -- we show a -- a net operating income
16 under the income of \$830,000 which is a cash-on-cash
17 return of 6.9 percent. In other words, slightly
18 lower.

19 CHAIRPERSON GRIFFIS: Right.

20 MR. BOLAN: And the difference is very
21 simple that residential rents are less than office.

22 CHAIRPERSON GRIFFIS: Right.

23 MR. BOLAN: That's -- that's the bottom
24 line and then all this does is just work out the math
25 of that.

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1 CHAIRPERSON GRIFFIS: Okay.

2 MR. BOLAN: Once again, we've capitalized
3 that at both the 7 and 8 percent capitalization rate,
4 but here it's just enough to keep it all in the loss
5 side with a projected loss on sale of between \$89,000
6 and \$1,500,000.

7 CHAIRPERSON GRIFFIS: Okay. And it's --
8 it's your -- you've stated it's your expert opinion in
9 -- in the two scenarios of relief requested even -- as
10 proposed and then revised as proposed that this is
11 just one the threshold of being financially feasible.

12 MR. BOLAN: Under the most optimistic
13 circumstances, it is just barely feasible. Just
14 barely.

15 CHAIRPERSON GRIFFIS: Okay.

16 MR. BOLAN: The -- the "Buy Right" is
17 completely impractical in every sense of the word from
18 a -- from a financial standpoint.

19 CHAIRPERSON GRIFFIS: Okay.

20 MR. BOLAN: But, if the relief that is
21 being requested is applied, then there is at least a
22 fighting chance that this project could be made
23 profitable.

24 CHAIRPERSON GRIFFIS: Okay. And how much
25 in your understanding of the financial feasibility of

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1 these things and in your expert opinion, how much --
2 how much problems are created with the existing
3 structures? I guess my point is would -- do the
4 numbers change here if you built a brand new building
5 with a single floor plate, with a, you know, however
6 you wanted to configure it?

7 MR. BOLAN: Oh, if -- if this was simply a
8 vacant site, we'd do just new construction here, these
9 numbers would be totally different. Number one, the
10 construction costs would be substantially lower.

11 CHAIRPERSON GRIFFIS: Okay. That's --

12 MR. BOLAN: There's -- that's -- that's
13 where you would see the major difference. I don't
14 think you'd see much of a difference on the income
15 side. Presumably, the rents would not be higher or
16 lower.

17 CHAIRPERSON GRIFFIS: I see.

18 MR. BOLAN: But, the --

19 CHAIRPERSON GRIFFIS: But, you might get
20 that law firm up here.

21 MR. BOLAN: But -- it's possible.

22 CHAIRPERSON GRIFFIS: I see.

23 MR. BOLAN: But, you're going to get a
24 specialized user I think, you know, in this location.

25 But, where you would see a tremendous difference,

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1 instead of a base construction cost of \$271 a square
2 foot, you would be looking at a cost of perhaps half
3 that amount. Something in the neighborhood of \$135 to
4 \$150 a square foot.

5 CHAIRPERSON GRIFFIS: Okay.

6 MR. BOLAN: Not \$271 square foot.

7 CHAIRPERSON GRIFFIS: Right.

8 MR. BOLAN: That's where the problem is.

9 CHAIRPERSON GRIFFIS: Indeed. Okay.
10 Anything else?

11 MR. BOLAN: No, sir.

12 CHAIRPERSON GRIFFIS: Excellent.
13 Questions from the Board. Ms. Miller.

14 MEMBER MILLER: Did you do an analysis
15 with tables like this showing what the profit and
16 costs would be if you adopted OP's recommendation?

17 MR. BOLAN: This does. I believe that the
18 Alternative D does.

19 CHAIRPERSON GRIFFIS: Yes, that's what
20 this one --

21 MR. BOLAN: Oh, you mean with all -- doing
22 all residential? It -- it lowers it. I can tell you
23 that. It does lower.

24 Because what -- what happens and again,
25 the -- the answer's a very simple one. The

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1 residential -- we've assumed rent for the residential
2 of \$1.75 a square foot triple net. That would equate
3 to a gross rent today of about \$2.25 to \$2.50 per
4 square foot per month.

5 But, in order to strip away the operating
6 expenses and taxes and just to see what remains for
7 the developer, that would translate to \$175 per square
8 foot per month. That's \$21 a year. \$1.75 times 12.
9 The office space would rent for more.

10 So, if you do all residential rather than
11 office, you are definitely having a negative impact on
12 the project and this -- this -- this so-called
13 compromise position using the third floor for half
14 office and half residential, I think does make a -- a
15 financial compromise as well.

16 But, if you were to do this with all
17 residential, it would definitely have an adverse
18 impact for that reason.

19 MR. GLASGOW: I think and -- we can have
20 -- Ms. Miller, for ease --

21 CHAIRPERSON GRIFFIS: Actually, before --
22 before he moves on as a room full of experts, there's
23 often lots of terms that are thrown out. So, let me
24 have you step back and just briefly describe for the
25 Board what triple net means and how that -- no, don't

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1 -- or just define it.

2 MR. BOLAN: Okay. Triple net means
3 essentially what goes into the developers pocket.
4 That means it excludes the operating expenses and
5 property taxes for the property. So, when -- when I
6 said \$1.75 a square foot triple net for -- for
7 residential, that means that would be left -- what
8 would be left for the developer after he has paid the
9 operating expenses and taxes for the building.

10 CHAIRPERSON GRIFFIS: Right.

11 MR. BOLAN: And the same thing would be
12 true on -- on office and resident -- on retail.

13 CHAIRPERSON GRIFFIS: Okay. And
14 oftentimes, might that include also tenant
15 improvements. That is maybe factored into agreement
16 that would be factored into one of the nets.

17 MR. BOLAN: The tenant improvements --

18 CHAIRPERSON GRIFFIS: The first and the
19 second and to the third. I see.

20 MR. BOLAN: The tenant improvements would
21 be included in this. In the -- the residential, they
22 almost invariably are.

23 CHAIRPERSON GRIFFIS: Okay.

24 MR. BOLAN: In -- and in this case, there
25 would be a tenant allowance and -- and that's included

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1 in this.

2 CHAIRPERSON GRIFFIS: Okay. So, it's --
3 what's taken away.

4 MR. BOLAN: Exactly.

5 CHAIRPERSON GRIFFIS: Good. Thank you.
6 I'm sorry. Yes.

7 MR. GLASGOW: And then just very briefly.
8 Thank you.

9 We had Mr. Bolan just for ease because we
10 were doing a lot of computations after we got the --
11 the report back from the Office of Planning, we kept
12 the construction costs for BSA Table 2 and Alternative
13 D the same. Where residential costs more to build
14 than office does because of the bathrooms and the
15 kitchens and that type of thing. So, that the numbers
16 -- while he's got -- he's got those numbers there,
17 there would be an increased construction cost to
18 Alternative D versus the BSA Table Number 2. So, that
19 would spread the difference between the Office of
20 Planning report of converting the entire floor as
21 opposed to the table.

22 CHAIRPERSON GRIFFIS: Any other questions?

23 COMMISSIONER MITTEN: I just want to ask a
24 -- a question about -- you have mentioned that you
25 went to HPRB. This doesn't really relate to the

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1 financial feasibility per se, but you said you went to
2 HPRB with a different proposal initially and then it
3 was pushing -- they wanted everything pushed back.

4 Would that have entailed variances as
5 well? The original proposal? Let's say
6 notwithstanding parking.

7 MR. GLASGOW: I wasn't at the HPRB
8 hearing. So, I'm looking at our raft of experts.

9 COMMISSIONER MITTEN: Okay.

10 CHAIRPERSON GRIFFIS: Yes is the answer.
11 Okay. Anything else?

12 COMMISSIONER MITTEN: Okay. No.

13 CHAIRPERSON GRIFFIS: Thanks. Any
14 questions on -- Ms. Miller, any further questions?
15 Very well.

16 Thanks very much, Mr. Bolan.

17 MR. GLASGOW: I'll call the -- I'd like to
18 call Ms. Cohen back up to address one particular issue
19 with respect to the -- to the parking and the loading.

20 That is -- may be part of the case --

21 CHAIRPERSON GRIFFIS: Okay. Okay.

22 MR. GLASGOW: -- depending upon what the
23 Board decides.

24 CHAIRPERSON GRIFFIS: All right.

25 MS. COHEN: We looked at parking -- we

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1 looked at parking basically where we would be required
2 to have 44 parking space, 22 for the existing and 22
3 for the new and in order to do that, we -- we would
4 have to have a minimum of three levels of underground
5 parking and -- and that's if we went basically back-
6 to-back. Just the way -- the site is so small to get
7 the turning radius and, you know, the drive -- the 40-
8 foot driveway.

9 CHAIRPERSON GRIFFIS: So, in three level
10 is actually you could fit 44 spaces?

11 MS. COHEN: If -- if they were back-to-
12 back basically. So, that means --

13 CHAIRPERSON GRIFFIS: Oh, so you'd have to
14 stack.

15 MS. COHEN: Unit -- stacked units.

16 CHAIRPERSON GRIFFIS: And you'd have a
17 speed ramp down.

18 MS. COHEN: It would -- it would be
19 difficult. It would be very difficult and there would
20 have to be -- there would have to be an attendant
21 there or somebody to move the car back --

22 CHAIRPERSON GRIFFIS: I see.

23 MS. COHEN: -- and forth. Otherwise --

24 MR. GLASGOW: I think to add three levels
25 of below grade parking --

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1 CHAIRPERSON GRIFFIS: Underneath --

2 MR. GLASGOW: -- with everything else,
3 yes. I think from an economic feasibility, we have
4 all the issues that we can deal with right now and the
5 parking I think you would need to provide possibly 22
6 spaces because we wouldn't have to provide for the
7 existing building.

8 CHAIRPERSON GRIFFIS: The existing.

9 MR. GLASGOW: But, that would still be on
10 two levels.

11 CHAIRPERSON GRIFFIS: Right.

12 MR. GLASGOW: Two levels of parking below
13 grade.

14 CHAIRPERSON GRIFFIS: Right.

15 MR. GLASGOW: And it would chew up -- then
16 we'd have to have Mr. Bolan do a further analysis as
17 to what the ramp down and everything does to the first
18 floor and the decrease in the rent and every -- you
19 know, the lost space there.

20 CHAIRPERSON GRIFFIS: Where were you
21 accessing it? From the alley?

22 MS. COHEN: Yes, from the alley.

23 MR. GLASGOW: Is that a ten-foot alley,
24 Ms. Cohen?

25 MS. COHEN: Yes, it is. Which also you

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1 can't have two-way traffic. You'd only have one way.

2 MR. GLASGOW: I think we would be in a
3 position to actually make that work. We'd have to
4 come in and demolish one of the facades of the
5 historic buildings. Because you're not going to be
6 able to get in off the ten-foot alley.

7 CHAIRPERSON GRIFFIS: Right and enter off
8 of -- whatever that east/west street is. What's the
9 east/west?

10 MR. GLASGOW: N -- N Street.

11 CHAIRPERSON GRIFFIS: That's right and --

12 MR. GLASGOW: Right. We'd have to take
13 out one of the facades, the historic facades on N
14 Street.

15 CHAIRPERSON GRIFFIS: Okay. Probably not
16 the most attractive thing to do.

17 MR. GLASGOW: Right.

18 CHAIRPERSON GRIFFIS: Okay. Anything
19 else?

20 MR. GLASGOW: I think on the loading if
21 you provided a 12 by 30 foot loading berth, that would
22 need to be at the -- would you provide that off the
23 alley? How would that work?

24 MS. COHEN: Yes, it would have to go up
25 the alley. Yes, it would have to go up the alley as

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1 well and I'm not sure --

2 CHAIRPERSON GRIFFIS: Okay. And the --

3 MS. COHEN: -- where to put it.

4 CHAIRPERSON GRIFFIS: -- that loading --
5 you couldn't put that in the garage?

6 MS. COHEN: No. No.

7 CHAIRPERSON GRIFFIS: Why?

8 MR. GLASGOW: The 10-foot wide alley you
9 couldn't get the 30-foot truck in.

10 CHAIRPERSON GRIFFIS: Okay. You also --
11 according to the zoning requirements, you'd have to
12 have a 14-foot clearance to get into that. Correct?
13 Which means you'd have to drop so quickly. The ramp
14 that you have drawn and you're holding up, actually
15 that would be a good submission to put in. Does that
16 comply with the -- the building code and zoning
17 regulations for, in fact, a grade slope of that ramp?
18 Do you know? If you did that calculation.

19 MS. COHEN: We -- we did -- I did this
20 very quickly and I just drew the standard ramp --

21 CHAIRPERSON GRIFFIS: Okay.

22 MS. COHEN: -- run. You know, what you
23 would -- what you would need and I would need
24 approximately 70 feet of -- of run.

25 CHAIRPERSON GRIFFIS: Okay.

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1 MS. COHEN: So, I have to -- I have to do
2 a switch back and it would be a very --

3 CHAIRPERSON GRIFFIS: Right.

4 MS. COHEN: -- tight turn.

5 CHAIRPERSON GRIFFIS: Okay. And your
6 drive -- and all that -- I mean obviously, it was done
7 quickly, but you're fairly secure that you actually
8 have access? Actually, when you submit that --
9 because I don't understand how you park in those?

10 MR. GLASGOW: We don't have access -- yes,
11 we don't have access. We don't have required access
12 because she stacked the spaces to increase the number.

13 CHAIRPERSON GRIFFIS: Right. Because
14 there's no way to drive back down there. So, what I'm
15 seeing is that you could fit the ramp or you could fit
16 parking.

17 MS. COHEN: Right.

18 CHAIRPERSON GRIFFIS: But, you couldn't --

19 MS. COHEN: It would be difficult to --

20 CHAIRPERSON GRIFFIS: Right now as I'm
21 looking at that from a distance, it doesn't look like
22 you could -- you could fit both which seems to make it
23 difficult to put parking below grade.

24 Okay. And then with loading and access
25 and all that obviously if you have to drop for a

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1 clearance that would be required with the zoning,
2 obviously it means you'd drop faster which again
3 indicates that you may have to -- you may have to flip
4 back again to get down to the first level. Okay.

5 I think that's fairly understanding in
6 terms of the -- the -- right. Indeed. Okay.

7 Anything else?

8 MR. GLASGOW: I'd like to call Mr. Sher.

9 CHAIRPERSON GRIFFIS: Indeed. Why don't
10 we do this. Let's take five minutes to stretch our
11 legs and I'm sorry this is being so protracted, but I
12 think we're getting through this fairly quickly.
13 We're going to come back in seven minutes and then
14 we'll get through Mr. Sher and we'll get through OP
15 and Governments and then we'll -- maybe we'll get
16 lunch today, but you guys will definitely get out and
17 enjoy the afternoon.

18 All right. We'll be right back.

19 (Whereupon, at 11:58 a.m. off the record
20 until 12:12 p.m.)

21 MR. GLASGOW: Mr. Sher, would you please
22 identify yourself for the record and proceed with your
23 testimony?

24 Mr. Chairman, are we ready to proceed or
25 should -- do we need to wait a minute?

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1 CHAIRPERSON GRIFFIS: We are absolutely
2 ready to proceed. We will be joined by everybody
3 shortly and let me make a quick note as I delay a
4 little bit while they get up here, but you can move
5 ahead with this.

6 As we have stated previous, these are
7 always exhaustive memos and it's always appreciated
8 when we get them ahead of time. As all the
9 information actually. It was a great clarity in terms
10 of the -- of Mr. Bolan's testimony which would have,
11 in fact, maybe mitigated questions we initially had.
12 It's been done now, but for further reference, there
13 it is.

14 Mr. Sher.

15 MR. SHER: Mr. Chairman, I apologize.

16 CHAIRPERSON GRIFFIS: Um-hum.

17 MR. SHER: For the record, my name is
18 Steven E. Sher, the Director of Zoning and Land Use
19 Services with the law firm of Holland and Knight.

20 As -- as I think the Board is aware, I've
21 been getting these in for the most part ahead of time,
22 but this one just didn't make it and I'll -- I'll
23 apologize in advance for the one this afternoon that
24 didn't make it either.

25 CHAIRPERSON GRIFFIS: Oh, boy.

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1 MR. SHER: Now, so, you can shoot me twice
2 today.

3 I think the Board is -- is --

4 CHAIRPERSON GRIFFIS: Actually, to that in
5 all seriousness, I would submit it now. We do have a
6 quick lunch break which we work through our lunches
7 all the time. So, if it's in, we can probably at
8 least get a head start.

9 MR. SHER: It's in the case.

10 UNIDENTIFIED SPEAKER: We will get it.

11 CHAIRPERSON GRIFFIS: Okay.

12 MR. SHER: I think the Board is -- is sort
13 of familiar enough with -- with the case to -- for me
14 to skip where the property is and --

15 CHAIRPERSON GRIFFIS: Yes.

16 MR. SHER: -- and what's the condition of
17 the buildings at the moment and so forth and so on.

18 CHAIRPERSON GRIFFIS: Good. Are gas
19 stations matter of right in this zone?

20 MR. SHER: Is a gas station a matter of
21 right in a C2 zone? I don't think so. I think it's a
22 special exception.

23 CHAIRPERSON GRIFFIS: Okay.

24 MR. SHER: But, I'll --

25 MR. GLASGOW: It may have been matter of

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1 right when it was built.

2 CHAIRPERSON GRIFFIS: Right. No, indeed.

3 I was just wondering because there was some testimony
4 in terms of not putting fenestration on that and I was
5 thinking well, you know, when's a gas station going to
6 go away, but that's beside the point.

7 Go ahead.

8 MR. SHER: It is a special exception in a
9 C2 zone.

10 CHAIRPERSON GRIFFIS: Excellent.

11 MR. SHER: Just to -- to again reset the
12 stage about what the use is that is proposed for the
13 Board now, it would be retail and service uses on the
14 first floor, office uses on the second floor, office
15 and residential on the third floor, and apartment
16 house or residential on the fourth and fifth floors.

17 So, we still have a total of 3.75 FAR, but
18 the commercial FAR now proposed is 2.39 and the
19 residential is 1.36. The maximum permitted overall in
20 a C2A district is 2.5 FAR. So, we are in excess of
21 that and continue to need a variance.

22 The height of the building as proposed is
23 52 feet 10 3/4 inches. Parking, none is provided.

24 And let me digress from the outline for a
25 moment to add some calculations that I've done this

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1 morning. The existing building, assuming that the
2 first floor had been retail use and the second floor
3 -- second and third floors for those buildings that
4 had a third floor could have been office use as a
5 matter of right under the C2 zone, would have required
6 22 parking spaces. The proposed use if the parking
7 requirements apply would require 20 parking spaces for
8 the retail, 19 parking spaces for the office, and five
9 parking spaces for the apartments for a total of 44 if
10 those requirements apply which I do not believe they
11 do.

12 As far as loading is concerned, no loading
13 would have been required for the previous use of the
14 building. No loading would be required for the office
15 use because it's below the threshold for office. No
16 loading would be required for the apartments because
17 it's below the -- the threshold for apartments.
18 However, the retail use at a little under 7,000 square
19 feet would require one 30-foot berth if a loading
20 berth were require. No service delivery space. Just
21 a 30-foot berth. Again, I -- I don't believe the
22 regulations require that in the current circumstance.

23 So, what we're seeking is four variances,
24 height 2 feet 10 3/4 inches, FAR 1.25 FAR, the rear
25 yard 15 feet, and as -- as there's a typo in the

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1 residential recreation space, I've got too many digits
2 after the comma, but that number is -- is -- should be
3 1,144. This is page five, letter D, number 2. 1,144.

4 But, what is now required because we've
5 increased the amount of residential space in the
6 building would be 2,249 rather than 1,449 and so, the
7 variance would be approximately 1,105 square feet
8 instead of 305.

9 CHAIRPERSON GRIFFIS: Speaking of
10 residential recreation space, do you want to --
11 clearly there's been evidence in terms of the
12 Convention Center that's right next door and they I
13 imagine have some interior spaces which one might --
14 but, what else is around the area just very briefly in
15 terms of outdoor recreation.

16 MR. GLASGOW: I think Mr. Padro is going
17 to talk about a new community center that's just been
18 built when he testifies.

19 CHAIRPERSON GRIFFIS: You calling him as a
20 witness?

21 MR. GLASGOW: He's certainly a witness in
22 support of the application we understand.

23 CHAIRPERSON GRIFFIS: Okay. But, you're
24 not calling -- let's just put it into your testimony.

25 MR. SHER: Okay. Then --

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1 CHAIRPERSON GRIFFIS: Can you tell me what
2 park is close by?

3 MR. SHER: The -- the -- the -- what used
4 to be called the Kennedy Playground and I'm not sure
5 if it's still named that or not. On 7th Street.

6 CHAIRPERSON GRIFFIS: Okay.

7 MR. SHER: At O. Roughly is the site of
8 the -- I think they're building it. Mr. Glasgow was
9 just referring to. It's two --

10 CHAIRPERSON GRIFFIS: Within two blocks?

11 MR. SHER: It's a block and a half over
12 and a block up.

13 CHAIRPERSON GRIFFIS: And it has open
14 area, playground equipment?

15 MR. SHER: It's open and enclosed
16 community center building.

17 CHAIRPERSON GRIFFIS: Okay.

18 MR. SHER: That's the nearest building or
19 -- or district facility that I know of that's right
20 there. There are some of the federal reservations as
21 you go further down towards Mass Avenue, but that's
22 three blocks already as you get down from the whole
23 length of the Convention Center. You got Mt. Vernon
24 Square and other things, but that's a ways away.

25 CHAIRPERSON GRIFFIS: Okay.

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1 MR. SHER: So. I think the Board is -- is
2 familiar generally with the standards for a variance
3 and -- and on page five -- six, I've -- I've looked at
4 the question of exceptional or extraordinary
5 situation, the practical difficulty, and the no
6 detriment to the public good as it relates to all four
7 of the variances.

8 I think that -- that in -- in summary,
9 you've heard this from the previous witnesses, the
10 five separate buildings which contribute to the
11 character of the historic district, the different
12 floor levels in the exterior designs, the extremely
13 dilapidated condition and -- and one factor that I'm
14 not sure was put in -- in this context, the fact that
15 the distance between the rear of the buildings and the
16 rear lot line is only 35 to 40 feet. So, you've got
17 -- don't have a tremendous amount of area at the back
18 on which you could build something. Again, it goes
19 back to ramps for parking if you were thinking about
20 trying to do parking.

21 Where you put the core of the building
22 which logically seems to get pushed to the back of the
23 building so you don't disrupt the floor plates anymore
24 than you have to, the requirement of HPRB to push the
25 building back, so, you're pushing the bulk to the east

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1 as opposed to where it might otherwise be if this were
2 a non-incumbered site.

3 If this were not in an historic district
4 or did not have contributing buildings. I think the
5 -- the difficulties of developing the site would be
6 significantly less which then goes to the issues I've
7 related to under practical difficulty and -- and the
8 testimony of -- of the cost related to preserving
9 these particular buildings not buildings in general,
10 but these particular buildings and the amount of
11 density that can be built behind them to -- to sustain
12 those costs or to help offset those costs, we just
13 don't believe that it can be done within 2.5 FAR and
14 -- and based on the materials that's I've reviewed, I
15 don't believe it can be done within that amount of
16 density either.

17 As to the public good, the height is a
18 minimal variance. It's the minimum necessary to get
19 those two floors in there. Otherwise, you'd be trying
20 to get two floors in 15 feet which would allow only
21 very short people or a -- or -- or just -- it wouldn't
22 be -- it wouldn't be possible or practical to do
23 because of the way the building's set back. The
24 height in the mass is not visible from most locations.

25 The C2A district does allow and encourage

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1 mixed use projects. HPRB has approved the design and
2 so forth.

3 So, looking at the tests of the
4 regulations and the statute and looking at the facts
5 of this case, I believe that the Applicant has made a
6 case that these variance meet those tests and the
7 application should be granted.

8 CHAIRPERSON GRIFFIS: Very well.
9 Questions from the Board? Not hearing any, thanks
10 very much.

11 MR. GLASGOW: Mr. Chairman, did the Board
12 want a copy of this rough drawing that was done of the
13 parking?

14 CHAIRPERSON GRIFFIS: Yes.

15 MR. GLASGOW: All right. You don't need
16 the original. We can get you a copy of this?

17 CHAIRPERSON GRIFFIS: Oh, yes, copies are
18 fine. I mean as you've evidenced it, it needs to go
19 into the record.

20 Okay. Anything else? Any other
21 witnesses?

22 MR. GLASGOW: Those are -- that completes
23 the Applicant's direct presentation.

24 CHAIRPERSON GRIFFIS: Okay. Good. Let's
25 move on to Office of Planning then.

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1 MR. MOORE: Good afternoon, Mr. Chair and
2 members of the Board.

3 In the essence of time, the Office of
4 Planning supports 3? of the variance requests the
5 Applicant is seeking.

6 The only difference being that a total
7 nonresidential FAR that the Applicant has addressed
8 this morning and it sounds positive. However, the
9 Office of Planning would reserve the right with the
10 Board's approval of course, to do a supplement that
11 will address that.

12 CHAIRPERSON GRIFFIS: Okay. Can you --

13 MR. MOORE: In whatever time frame you
14 want us to do it in.

15 CHAIRPERSON GRIFFIS: Okay. I think that
16 makes some logical, but let me understand. If you
17 wouldn't mind just adding a little more information to
18 your reasoning behind increasing the residential and
19 specifically the placement of the residential.

20 MR. MOORE: We were looking at more or
21 less the distribution and trying to be as close to the
22 regulations as possible. 2.5 of which no more than
23 1.5 should be nonresidential and as originally
24 proposed the nonresidential component I think it was
25 about double what the residential would have been.

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1 And in terms of building neighborhoods, we
2 -- although we know it is not financially as
3 supportable as commercial would be, we believe that
4 people who live in communities build neighborhoods and
5 so, we want to maximize to the extent possible and
6 stay as close to the regs as possible the residential
7 component versus the nonresidential component in the
8 building.

9 CHAIRPERSON GRIFFIS: Okay. So, if I
10 understand you correctly, you're saying in a C2A zone
11 clearly it's laid out to emphasize or encourage more
12 residential or to other uses and that's what you're
13 trying to do in this mix.

14 MR. MOORE: Which is exactly what we're
15 trying to achieve.

16 CHAIRPERSON GRIFFIS: Right. Okay. Any
17 other questions from the Board?

18 MEMBER MILLER: I have a question.

19 CHAIRPERSON GRIFFIS: Yes.

20 MEMBER MILLER: When OP does it's
21 analysis, does it take into account economic
22 feasibility or is it just doing it from an ideal
23 standpoint?

24 MR. MOORE: To be perfectly honest with
25 you, Ms. Miller, when we first did it, it was based on

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1 two parameters, one being the -- the recommendations
2 of HP and the other being economic considerations and
3 anticipating that very question, this second was
4 kicked out.

5 So, no, we didn't use economic feasibility
6 in our analysis.

7 MEMBER MILLER: When you're going back to
8 do your supplemental report, is that something you
9 will take into consideration or -- or --

10 MR. MOORE: In light of what was presented
11 today, yes, we will.

12 MEMBER MILLER: Okay. Thank you.

13 CHAIRPERSON GRIFFIS: Okay. Any other
14 questions from the Board?

15 Office of Planning, does the Applicant
16 have any cross examination questions?

17 MR. GLASGOW: No, sir.

18 CHAIRPERSON GRIFFIS: ANC any cross
19 examination of the Office of Planning? None. Very
20 well.

21 Thank you very much. We appreciate it.
22 It's an excellent report. I'm glad you also
23 summarized. It is very clear in its submission for
24 us.

25 There we are. We do also have the

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1 Department of Transportation report. We actually have
2 two if I'm not mistaken. Is that correct? We have
3 Exhibit Number 27 and then a second supplemental that
4 came in. I think we received this this morning. Am I
5 correct? Right.

6 Mr. Glasgow, do you -- you -- you have
7 both of these. Correct?

8 MR. GLASGOW: Yes, sir.

9 CHAIRPERSON GRIFFIS: Can you summarize?

10 MR. GLASGOW: The first report indicated
11 that it did not -- that -- that DDOT did not support
12 the project based -- if the applications -- if 2100.5
13 was not applicable and that it would be governed by
14 2100.6. It said that -- right at the end, it says
15 under 2100.6 accordingly, DDOT does not support the
16 application as currently proposed.

17 Then after receiving the information as to
18 2100.5 and the Historic -- that the buildings did
19 contribute to the historic district, I'm now to the
20 second report, the May 19th report. It says
21 accordingly, DDOT has no objection to the application.

22 CHAIRPERSON GRIFFIS: Okay.

23 MR. GLASGOW: And they also did note the
24 issues with the alley access because you've got a 10-
25 foot wide alley.

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1 CHAIRPERSON GRIFFIS: Are you anticipating
2 doing loading zones around this building?

3 MR. GLASGOW: Yes, what -- yes, and we
4 talked to them about that and they referenced that in
5 -- in their report. Just -- and they recognize when
6 we had the -- we had a conference call with them that
7 Mr. Moore was part of and they recognized that it --
8 as a commercially zoned piece of property with street
9 frontage, we have the right to request a -- a loading
10 zone and that we would work with the portion of DDOT
11 that -- that issues that. Since we have a corner lot
12 and we can go one of two places --

13 CHAIRPERSON GRIFFIS: Right.

14 MR. GLASGOW: -- we would just work to
15 them -- work with them as to where the loading zone
16 is.

17 Loading zones are generally 40 feet in
18 length. Required loading berth is 30 feet in length.
19 So, we felt very comfortable with that.

20 CHAIRPERSON GRIFFIS: Okay. And I think
21 we take a look at I mean all of this in the whole
22 application and somewhat with a third test of -- of
23 the variances, but that to me -- an -- an
24 embellishment in my mind is how it fits within the
25 neighborhood and we look at an existing use of retail

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1 or let's say commercial and residential on a wide
2 street, 9th as evidence in the record of the -- the
3 aerial photographs and it seems like it could easily
4 accommodate street loading without -- I mean not being
5 on the magnitude of something like the Convention
6 Center where you're going to have all of those trucks
7 which obviously they've accommodated in their site.

8 So, there it is. I think the DDOT report
9 is fairly clear and they are anticipating that you'll
10 make further provisions in accommodating their
11 realities of loading both the residential and the --
12 and the commercial.

13 MR. GLASGOW: Yes, sir, and we did in the
14 -- the trash area that they talk about in the back
15 because we do have the climatized trash area that
16 operates the way that they want it to.

17 CHAIRPERSON GRIFFIS: Right. Which in
18 your written report you didn't bring that up this
19 morning, but obviously, it goes to vector control.

20 MR. GLASGOW: Yes, sir.

21 CHAIRPERSON GRIFFIS: Right. It's a great
22 word actually throwing around there.

23 MEMBER ETHERLY: Yes, we are anti-rat.

24 CHAIRPERSON GRIFFIS: Yes. Okay. Any
25 other questions of that? Clarity on the Department of

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1 Transportation's report?

2 Then let's move on to ANC-2C and we do
3 have the representative here who we've kept here all
4 morning.

5 MR. PADRO: Good morning, Mr. Chairman and
6 members of the Board.

7 For the record, I'm Alexander M. Padro.
8 I'm Advisory Neighborhood Commissioner for ANC Single
9 Member District 2C01 in Shaw where this property is
10 located.

11 And I have three documents that I would
12 like to present to the Board this afternoon.

13 The first is a letter of support for this
14 application from Ward 2 Council Member Jack Evans.
15 This was supposed to have been messengered over
16 yesterday but ended up being faxed over. It's been
17 received by the office and I have copies to
18 distribute.

19 I also have a letter which I have
20 prepared, original on top, copies underneath,
21 summarizing -- actually I got bottom wrong --
22 summarizing community outreach efforts regarding this
23 project and some historic preservation issues.

24 And then lastly, I have a letter from Shaw
25 Main Streets, Inc. of which I serve as the Chair of

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1 the Board of Directors which has also taken a position
2 on this.

3 And -- and I would appreciate the Chair's
4 and the Board's indulgence in trying to consolidate
5 the two sets of remarks that I am presenting to you
6 this morning from the ANC perspective and from the
7 commercial revitalization perspective of Shaw Main
8 Streets, Inc.

9 CHAIRPERSON GRIFFIS: The Shaw Main Street
10 is one of the newly designated main streets. Is that
11 correct?

12 MR. PADRO: Correct. The Shaw Main
13 Streets, Inc., a nonprofit organization, was formed in
14 March of 2002.

15 CHAIRPERSON GRIFFIS: Okay.

16 MR. PADRO: And was designated on May the
17 7th to participate in the D.C. Main Streets program.

18 CHAIRPERSON GRIFFIS: Excellent.

19 MR. PADRO: So, with your indulgence.

20 I will not read these letters into the
21 record. You can refer to them. I will bring little
22 salient points.

23 Before I do that, I do have two points
24 that I would like to make clarifications on Mr. Sher's
25 testimony. Some additional information that perhaps

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1 he did not have at his disposal or was not included
2 and should have been included.

3 This goes to page two of the outline of
4 his testimony. Roman numeral II, item E, uses to the
5 east. In addition to the uses that are stipulated,
6 there is an additional small office building at 1300
7 7th Street, NW which was formerly the Seventh Street
8 Savings Bank and there are two row houses on the 1300
9 block of 8th Street on the east side adjacent to
10 Immaculate Conception Roman Catholic Church which
11 serve as a church rectory and also as -- as rental
12 office space.

13 And to address the issue of recreation
14 space available in the neighborhood, this goes to page
15 three of the outline Roman Numeral III, item G. I'd
16 like to briefly enumerate the active recreation spaces
17 that are available in the area.

18 First, the Kennedy Recreation Center which
19 is the -- the new name for the Kennedy Playground
20 located on the square bounded by 6th, 7th, O, and P
21 Streets, NW will be opening at the end of June. That
22 represents a \$4.5 million investment on the part of
23 the District government to provide increased
24 recreation opportunity in the community. It includes
25 a -- a large building which has a gymnasium, a weight

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1 room, classrooms, lockers, showers, and improvements
2 to the grounds which include tennis courts, outdoor
3 basketball courts, sprinklered recreation space for
4 children, and two playgrounds in addition to the
5 existing barbecue grove and baseball diamond.

6 Additional recreation spaces in the area
7 are located at the Shaw Recreation Center which is at
8 the west side of Shaw Junior High School at 925 Rhode
9 Island Avenue. That consists of two tennis courts,
10 one outdoor basketball court, a soccer field, and
11 another large field as well as indoor recreation space
12 that is shared space with the gymnasium for the
13 school.

14 There is also a soccer field, baseball
15 field, and basketball area behind Seaton Elementary
16 School which is located directly to the south of the
17 Shaw Junior High School and then lastly, at Bundy
18 Elementary School on the 400 block of N Street, NW
19 there is also a large playing field that is used for
20 soccer as well as baseball.

21 CHAIRPERSON GRIFFIS: So, you're saying
22 that people in the area are in good shape?

23 MR. PADRO: We have a -- a great deal -- a
24 great number of options in terms of -- of active
25 recreation space and we're very grateful to the

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1 Williams' administration for the improvements at the
2 Kennedy Playground which is again just, you know, one
3 block away from the subject property.

4 CHAIRPERSON GRIFFIS: Good.

5 MR. PADRO: So, onto ANC considerations.
6 This is a location which has, you know, had the
7 attention of the community for a very long time. This
8 was, you know, a very actively used retail space, a
9 number of different businesses that were in active
10 operation until the economic downturn that began in
11 1960s was exacerbated by the 1968 riots following the
12 assassination of Dr. Martin Luther King, Jr. and the
13 subsequent decades of disinvestment in this corridor.

14 At the time that Douglas Development
15 acquired the property, it was inhabited by squatters
16 that were using it to engage in illegal activities
17 including drug sales and use and prostitution. It was
18 a frequent -- frequently visited location by
19 Metropolitan Police Department and it was --

20 CHAIRPERSON GRIFFIS: Hopefully to stop
21 those activities.

22 MR. PADRO: Yes, indeed.

23 CHAIRPERSON GRIFFIS: Okay.

24 MR. PADRO: In response to calls for
25 service.

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CHAIRPERSON GRIFFIS: Indeed.

MR. PADRO: Not to partake. And so, it was a -- a great relief to the community that, you know, Douglas Development acquired this property. To be quite honest with you, the level of deterioration in the buildings really did lead us to believe that some of these squatters and trespassers were going to end up being killed because there would be a roof collapse.

And previous owners made minimal attempts to try to secure the property. The property was not properly secured and as a result the incursions and intrusions continued to take place.

So, upon the acquisition of the property by Douglas Development which is regarded as one of the most preservation sensitive and preservation oriented development companies working in the District of Columbia, the community began a dialogue with Douglas Development about what they would like to see happen with this important corner taking into account the fact that it was going to be directly across the street from the new Washington Convention Center, an \$834 million investment in our community and taking into account the fact that there was a long held desire among community residents to have, you know, a

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1 restoration of the traditional uses, commercial uses
2 along 7th and 9th Streets.

3 These two streets developed as has been
4 stated previously in the years during and following
5 the Civil War along the streetcar lines that ran
6 through the neighborhood. This originally was, you
7 know, beyond the area where development had been
8 taking place and it was only with the addition of this
9 -- at -- at that time new means of transportation that
10 development began to be spurred.

11 And the pattern of development, you know,
12 typically was to have retail establishments on the
13 ground floor and -- and residential above and that is
14 something that in these lean years in the last half of
15 the 20th century began to be disrupted to the point
16 where at present there is very little retail along
17 these blocks. That has begun to change as -- as some
18 minor private investment has started in the area.

19 You know, nonetheless, you've heard
20 already about the significant deterioration, the fact
21 that Ward 2 Neighborhood Services Coordinator Clark
22 Ray had made efforts with the Ward 2 Core Team to
23 bring District government resources to bear on a
24 severely blighted building that was, you know,
25 representing, you know, a possible threat to health

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1 and safety and those were instigated by myself as a
2 result of -- of concerns about what might happen there
3 if the property was not properly secured.

4 Working with this District agencies
5 including the Historic Preservation Review Board and
6 DCRA and Douglas Development, you know, the decisions
7 that were made in terms of removing portions of the
8 rears of these buildings, you know, were made and the
9 buildings stabilized, completely secured so that there
10 would not be any further intrusions and, you know, the
11 process of community outreach, you know, began.

12 Now, I would -- you know, I want to
13 emphasize the extensive community outreach that has
14 been undertaken on this project because of its, you
15 know, very important location, but also because of
16 it's very important role in the restoration of the
17 Shaw Historic District. This is one of the key
18 corners in the -- in the historic district. If you
19 look at the map of the Shaw Historic District, you
20 will see that there are a great number of perforations
21 in the historic fabric.

22 And because some of the oldest buildings
23 in the entire district are included in this particular
24 lot, you know, residents and especially those that
25 are, you know, concerned about preservation issues saw

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1 this as being, you know -- you know, a project that we
2 could not afford to lose a single square inch of
3 historic fabric.

4 You know, as a result, there was quite a
5 bit of -- of discussion and -- and concern about the
6 material that had to be removed from the buildings in
7 order to stabilize them, but nonetheless, that -- the
8 consensus was that, you know, it was more -- it's
9 certainly preferable, you know, to -- to maintain what
10 historic fabric was there, not lose anymore and we
11 were grateful to have a developer who was not inclined
12 to simply go ahead with DCRA's initial inclination and
13 simply raze this item and have a -- a type of a -- for
14 development.

15 So, as you'll see in -- in my written
16 statements, a number of public meetings were held. I
17 arranged those as part of the -- the monthly meetings
18 that I hold as a matter of course for my constituents
19 to be able to hear presentations from developers and
20 from District government agencies about issues of
21 concern and proposals and going back to November of --
22 of 2001, we began having meetings to discuss the
23 future of this site in which Douglas Development was a
24 participant.

25 And on the basis of the discussions at

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1 these meetings as well as surveys that I had begun
2 conducting in August of 2000 -- in the year 2000 to
3 determine the types of retail that were most desired
4 by community residents in the area. You know, we were
5 able to -- to come to the conclusion which was
6 supported by Douglas Development that there were three
7 priorities for the reuse of this property.

8 The first was, you know, the provision of
9 retail space, the second of commercial space, and then
10 thirdly residential space.

11 The reason for that hierarchy is that, you
12 know, the -- the greatest need right now is for retail
13 space. Currently, you know, the majority of the
14 retail spaces along 7th and 9th Streets that are in
15 historic properties are not in the condition to be
16 occupied and it is felt that this would be -- this
17 project would be a clear signal, some would say a
18 catalyst or a keystone in stimulating that
19 redevelopment of those types of -- of properties that
20 do have ground floor retail space that has
21 traditionally been made available for commercial
22 activities to show that it can be done.

23 Now, of course, you know, it turns out
24 that this is probably the most expensive of -- of all
25 those opportunities to -- to have -- be the -- the

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1 first such project, but -- but nonetheless, because of
2 its -- its critical location, that was the primary
3 recommendation.

4 Secondary recommendation is for office
5 space and the reason for that is because of -- of
6 decisions that were made on -- on higher levels.
7 During the late 1970s and late 1980s, there was a
8 shift from this traditional mixed use, you know, two
9 and three storied development paradigm in the
10 neighborhood towards high density residential and that
11 primarily happened on 7th Street and -- and it's in
12 evidence on, you know, the Immaculate Conception high
13 rise that is mentioned in the report as being directly
14 to the east as well as Gibson Plaza, Washington
15 Apartments, Lincoln Westmoreland, Kelsey Gardens, et
16 cetera. Primarily along upper 7th Street.

17 Many spaces that had been used for, you
18 know, doctors' offices, lawyer -- lawyers' offices,
19 accountants' offices, other professional office spaces
20 very often on upper floors of -- of the two and three
21 storied buildings that previously occupied these
22 sites, you know -- you know, were lost in that process
23 and is seen as being a priority to bring that back.

24 The reason that residential was felt to be
25 a lesser priority in this particular instance was

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1 because there is such high density residential right
2 near by and there are other abandoned properties in
3 close proximity that are being purchased for
4 rehabilitation and residential occupancy and as a
5 result, that was the reason why it was not felt that
6 residential at this particular site was as important
7 although it was seen as being desirable as part of the
8 mix to restore the historic relationship.

9 In the -- in the process of developing the
10 recommendations and working with Douglas Development
11 and dealing with the Historic Preservation Review
12 Board staff, we went from a situation where the -- the
13 construction -- new construction was actually going to
14 go all the way up to the facade on 9th Street which
15 was actually supportable historically because directly
16 across the street there were structures that -- that
17 had that pattern of development, subsequent addition
18 of third, fourth, fifth stories atop three story
19 buildings.

20 But, nonetheless, HPRB as you've heard
21 previously had asked in a departure from past practice
22 to pull all of that development off. That, you know,
23 was once again presented to the community at another
24 meeting in December of 2002 and that proposal received
25 the ANC's support when it went to the Historic

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1 Preservation Review Board.

2 And I think it's important to note that at
3 the Historic Preservation Review Board hearing the
4 statement was made by the chairman, Tersh Boasberg,
5 that obviously what the Board was asking the developer
6 to do would require zoning relief and there was a
7 specific statement made from the bench by Mr. Boasberg
8 that whether it's, you know, valid for him to have
9 made it or not, that -- that the Board would support
10 the BZA application which would allow the Board's --
11 the Historic Preservation Review Board's decisions,
12 you know, to be implemented.

13 So --

14 CHAIRPERSON GRIFFIS: That would set up
15 some sort of system that we would then support their
16 design which means --

17 MR. PADRO: It's interesting. Isn't it?

18 CHAIRPERSON GRIFFIS: -- perhaps we look
19 at that and -- well, maybe not.

20 MR. PADRO: It's sort of a tautology that,
21 you know --

22 CHAIRPERSON GRIFFIS: Yes, you know,
23 directness -- I mean we appreciate that. They need to
24 do what they need to do.

25 MR. PADRO: Right.

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1 CHAIRPERSON GRIFFIS: I'm not sure their
2 messages or their support of applications fit without
3 our tests in looking at them.

4 MR. PADRO: Understood. So, finally, you
5 have in the record the report from ANC-2C's meeting on
6 May the 7th, 2003 where the commission unanimously
7 approved the zoning -- Board of Zoning Adjustment
8 application which would allow this project to move
9 forward.

10 Now, the -- the reason that the community
11 feels so strongly about granting of this relief to
12 allow this project to move forward in addition to the,
13 you know, the critical role that we see this
14 particular development as playing in the
15 revitalization of 9th Street is that, you know, we do
16 believe that were it not for this developer stepping
17 in at this particular time, we would be dealing with
18 an empty corner that would need to be redeveloped.

19 There are no other developers to my
20 knowledge and I've been actively involve in
21 preservation in the city since 1997 and specifically
22 focusing on this community that would even entertain a
23 project of this magnitude considering the huge amount
24 of expenditure and complexity in maintaining as much
25 as possible of the historic fabric of these buildings.

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1 This is a neighborhood that during urban
2 renewal faced losses of -- of entire blocks at a time
3 and fought that very strongly. We've always sought to
4 find the balance between, you know, preservation and
5 the maintenance of the historic character of our
6 neighborhood and, you know, the need for progress and
7 for development and quite simply we see it -- we see
8 preservation and development as not being mutually
9 exclusive.

10 This is a very special set of
11 circumstances obviously because of the condition of
12 the buildings, of the constraints of the site, but
13 nonetheless, you know, this is a project that probably
14 is -- will be unique in terms of the number of types
15 of relief that it will require. Looking at, you know,
16 the rest of the historic fabric along these blocks,
17 there are no parallel situations that I can think of
18 that would require this number of different, you know,
19 types of relief.

20 And, you know, again, in -- in order to
21 make this practical and feasible, you know, both the
22 ANC as well as, you know, Shaw Main Streets urge that
23 the -- the BZA grant the relief that has been
24 requested.

25 To be quite honest with you, if this

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1 project does not move forward, we will be dealing with
2 a cleared site because just simply demolition by
3 neglect will cause that to happen. We don't have, you
4 know, provisions in, you know, District law to force a
5 developer to, you know, pin a facade and to go to
6 extreme measures to insure that there is no further,
7 you know, loss of -- of historic fabric. These
8 buildings will fall apart, you know, of their own if
9 they are not aggressively and quickly stabilized and
10 development proceed with them.

11 So, with that, I thank you for allowing me
12 to go into probably more detail than you wanted to
13 hear about community positions on this.

14 I will also say that I have gone, you
15 know, door-to-door and spoken with as many of the
16 neighboring property owners, homeowners, businesses as
17 possible to keep them apprised, show them plans for
18 this new project and we have had no concerns in terms
19 of -- of additional parking stresses.

20 I have actually taken some of them down to
21 the 7th and 8th Street location that has been
22 mentioned several times as being a model development
23 by Douglas Development to show, you know, how loading
24 has been handled, how vector control has been achieved
25 through extraordinary measures on Douglas

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1 Development's part and, you know, we've been able to
2 -- to satisfy, you know, each and every person
3 contacted that this is something that will be a
4 benefit to their immediate neighborhood as well as to
5 the 7th and 9th Street corridors overall.

6 CHAIRPERSON GRIFFIS: Excellent. Thank
7 you very much. We appreciate that. That is quite
8 extensive involvement obviously that you've had which
9 we're well aware of.

10 I think there's some critical pieces that
11 you bring up that actually do inform very well several
12 of the important keys to the variances of course going
13 to the public good and speaking about how bringing
14 about the retail that was original how that fits into
15 the new main street and the purposes of the main
16 street and also in terms of the direction the ANC was
17 looking at.

18 Any questions from the Board at this time?
19 Clarifications?

20 MEMBER MILLER: I do -- I do have a
21 question.

22 CHAIRPERSON GRIFFIS: Yes, Ms. Miller.

23 MEMBER MILLER: Just for clarification on
24 the record, I really enjoyed listening to your
25 testimony and hearing from the community, but I just

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1 want to clarify for whom you were speaking. On
2 whether or not you were speaking for ANC-2C or for
3 your own -- for ANC-2C01 or your own views.

4 I see we have a letter in the record from
5 the ANC that a public hearing was held and a vote was
6 taken at which a quorum was present supporting the
7 application.

8 With respect to your remarks though, I
9 don't see in the record a similar kind of document
10 authorizing you to testify on behalf of the ANC.

11 MR. PADRO: And that probably, you know,
12 should have been prepared and as a result of it not
13 being, you know, in the record, you know, my remarks,
14 you know, will reflect my position as the Advisory
15 Neighborhood Commissioner with jurisdiction in
16 addition to that other hat that I wear in terms of
17 Shaw Main Streets and again, that's why I asked for
18 the Board's indulgence.

19 MEMBER MILLER: Thank you.

20 CHAIRPERSON GRIFFIS: Anything else?

21 Mr. Glasgow, any questions?

22 MR. GLASGOW: No questions.

23 CHAIRPERSON GRIFFIS: Very well. Thank
24 you very much. I appreciate your patience in being
25 down here all morning with us.

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1 That is all the government report, ANC
2 reports that I have attended to. Obviously, Mr. Padro
3 has also delivered a -- a letter from the council
4 member in the ward where the property is located which
5 we will put into the record and give an exhibit to.

6 Let's move on then. Is anyone here
7 attended to Application 17012 in support or in
8 opposition to give testimony today either in support
9 or opposition? Now, would be your time. Not seeing
10 anyone approach the table, I think we can move on to
11 any quick closing remarks you have.

12 MR. GLASGOW: I -- I think that there is
13 just one I guess housekeeping matter. Is the timing
14 of the OP submission. When that would -- when that
15 would be available from Mr. Moore.

16 CHAIRPERSON GRIFFIS: You want to use that
17 as your closing remarks or you --

18 MR. GLASGOW: I'm just asking a question
19 there as to the timing --

20 CHAIRPERSON GRIFFIS: Okay.

21 MR. GLASGOW: -- on that and then I'll
22 proceed from there.

23 CHAIRPERSON GRIFFIS: All right. Well,
24 here's the -- here's the situation which I'm trying to
25 glean from the Board. Also, we have that one other

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1 issue whether we wanted to take on this monumental
2 task of arguing today or not.

3 I would anticipate this that we set this
4 for decision making at our next meeting. That would
5 not be the -- this coming Tuesday but in two weeks.
6 Set it for a special public and -- and take that up.

7 What we can do is get submissions and
8 they'll be brief submissions that we'll need. I -- I
9 don't think we need anything more exhaustive on this
10 and that was what we'd require Office of Planning to
11 put a supplemental report. Unless they have major
12 difficulties to do with that, I would anticipate that
13 they'd be able to turn that around in that amount of
14 time.

15 Is that correct? Okay.

16 That's pretty much the direction I think
17 I'd like to take at this point.

18 MR. GLASGOW: I think just with respect to
19 -- to the closing statement we believe that -- that
20 the evidence and -- and testimony that we presented on
21 the record here on each and everyone of the variances
22 that has been requested has been met.

23 We are looking forward to the -- to the
24 Office of Planning report. We hope that that is
25 supportive, but irrespective of the Office of Planning

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1 report, at this point in time, we do believe that we
2 have met the burden of proof.

3 And as Ms. Miller indicated that they had
4 not taken into account the economic issues that we
5 face in coming up with the -- with the proposal that
6 we put forward today and we do appreciate the work
7 that we've had with Mr. Moore and working through how
8 it is to try to come up with a -- a third floor
9 development option that would best meet the -- the
10 issues that they raised in their report and what our
11 needs are.

12 We also would like to have -- we would
13 like to have some flexibility as long we do not
14 decrease the amount of residential square footage on
15 the third floor to reconfigure or reorient any of
16 those units because we were -- we were working with
17 Office of Planning on some fairly tight time frames.
18 So, as long as we do not decrease the square footage
19 of residential that we proposed on the third floor, we
20 would like to have flexibility as to the final layout
21 of those units.

22 And unless there are any questions, Mr.
23 Chairman, I don't have anything further on this
24 matter.

25 CHAIRPERSON GRIFFIS: Okay. Any -- any

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1 last questions from the Board? Clarifications? Very
2 well.

3 Well, I think that -- well, I know we have
4 -- we'll set this for decision making at our next
5 meeting which is two weeks from today and we will have
6 a deliberative session at that point, but I do want to
7 summarize.

8 First of all, I appreciate you -- you
9 bringing down all the information and witnesses that
10 you did because it did bring great clarity to a lot of
11 the arguments that were set forth in the original
12 application.

13 It hasn't been said by the Board and
14 perhaps I speak individually, but I concur with the --
15 the community's opinion and some of the other
16 witnesses in terms of the value of doing a development
17 of this type even though it is so cumbersome both in
18 price and in -- just in timing, but the value of
19 preserving and saving existing edifices that are mixed
20 use and -- and were and were good urban models and --
21 and we are trying to rediscover those in many of our
22 cities in many of our areas. So, it makes absolutely
23 no sense to do away with them and so, I think -- I
24 think this Applicant should be somewhat applauded in
25 taking on the burden of pulling this together.

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1 That being said, we will go to two weeks
2 from today. I would keep the record open.

3 Mr. Glasgow, if you wanted to address the
4 parking again, if you wanted to do a supplemental,
5 obviously we are not requiring nor are we requesting a
6 lengthy briefing on that, but if additional
7 information is -- is wanted to be provided, that would
8 be appreciated.

9 We will look for the Office of Planning's
10 supplemental report.

11 And anything else that we needed? Any
12 other Board members that -- I don't think we've
13 brought up anything, but any other additional
14 information? In which case --

15 MR. GLASGOW: The supplemental memos both
16 from us on parking and from OP would be due what day?

17 MR. MOY: Wednesday, that would be May the
18 28th. Because our mail would be -- for June the 3rd,
19 our mail out would be the -- to the Board members on
20 the 29th, but --

21 CHAIRPERSON GRIFFIS: That's a week from
22 tomorrow.

23 MR. GLASGOW: Week tomorrow. Possibly if
24 we even had a little bit shorter in case anybody
25 needed to respond to somebody else's memo.

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1 CHAIRPERSON GRIFFIS: In terms of
2 responding to the Office of Planning.

3 MR. GLASGOW: I'm trying to -- yes, I'm
4 trying to push it. Yes, I don't think that there will
5 -- there will need to be a response, but in the event
6 that there is.

7 Mr. Moore, did you --

8 CHAIRPERSON GRIFFIS: Mr. Moore, how
9 quickly could you get your supplemental in?

10 MR. MOORE: I like the 28th.

11 CHAIRPERSON GRIFFIS: Right. The 28th.

12 COMMISSIONER MITTEN: Mr. Chairman --

13 CHAIRPERSON GRIFFIS: Yes.

14 COMMISSIONER MITTEN: -- I mean just to be
15 fair to the Office of Planning, the -- to the extent
16 that they're also going to be addressing financial
17 feasibility, they have -- they have never seen the --
18 the analysis before and --

19 CHAIRPERSON GRIFFIS: Right. The
20 information that's coming out.

21 COMMISSIONER MITTEN: -- you know, it
22 takes time to absorb these things and respond. So,
23 you know, I -- I think it's fair to give them until
24 the 28th.

25 MR. GLASGOW: The packet's going out the

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1 29th and -- and if we had any response, we would file
2 on the 29th?

3 COMMISSIONER MITTEN: Well, I mean I think
4 there is some degree of flexibility there.

5 MR. GLASGOW: No, I just -- I just want to
6 make sure what the date is. I'm not complaining
7 about. If it's the 29th, it's the 29th. That's okay.

8 CHAIRPERSON GRIFFIS: We could get it --
9 okay. In the reality of the situation if there is and
10 we won't do this with all applications, but this is
11 clearly a small issue. It seems like your
12 supplemental or response would be a faxable document.

13 I think we could have that if it's into
14 the Office of Zoning by opening Monday. They can get
15 it to the Board Monday which would give us a brief
16 time but some time to look at it before our Tuesday
17 session and the Monday date is? What is the Monday?

18 MR. MOY: That's the second.

19 CHAIRPERSON GRIFFIS: The second.

20 MR. MOY: June 2nd.

21 CHAIRPERSON GRIFFIS: Okay. And that's if
22 it's needed of course. You're not required to respond
23 to it if you don't need to.

24 All right. That being said, are we clear
25 on submission dates? We know what we're doing.

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1 MR. GLASGOW: Yes, sir.

2 CHAIRPERSON GRIFFIS: Yes. Excellent.
3 Okay. In which case, do we have anything else, Mr.
4 Moy?

5 MR. MOY: That's it for the cases in the
6 morning, sir.

7 CHAIRPERSON GRIFFIS: Very good. Then
8 this will conclude the morning session of 20 May 2003.

9 In terms of the afternoon, we are at 1:00.

10 We have run over this morning. We will be taking
11 just a very brief, but we have business to conduct.
12 So, we will be back in 45 minutes.

13 (Whereupon, the hearing was concluded at
14 1:00 p.m.)
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